

**MUNICIPAL CODE**  
**VILLAGE OF MOUNT PLEASANT**

(Last Update No. 14-2017; December 2017)

# VILLAGE OF MOUNT PLEASANT

## CODE OF ORDINANCES

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**PART II**  
**CODE OF ORDINANCES**  
**Chapter 1**  
**GENERAL PROVISIONS**

<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
Sec. 1-1.	Designation and citation of Code.		
Sec. 1-2.	Definitions and rules of construction.		
Sec. 1-3.	Section catchlines and other headings.		
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## **Sec. 1-1. Designation and citation of Code.**

These ordinances shall be known as the "Code of Ordinances, Village of Mount Pleasant, Wisconsin," and shall take effect from and after passage and publication, as provided in Wis. Stats. § 66.035. All references to this Code shall be cited by section number (example: section 13-6).  
(Code 1993, § 25.07)

## **Sec. 1-2. Definitions and rules of construction.**

The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Generally.* Terms shall be construed in their common and usual significance unless the contrary is clearly indicated.

*Acts of agents.* When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

*Board and village board.* Whenever the terms "board" and "village board" are used without qualification, they shall read as if the term "of Mount Pleasant, Wisconsin" followed such terms.

*Code.* Whenever the term "Code" is used without further qualification, it shall mean the "Code of Ordinances, Village of Mount Pleasant, Wisconsin," as designated in section 1-1.

*Computation of time.*

- (1) The time within which an act is to be done or a proceeding had or taken shall be computed by excluding the first day and including the last day. When any such time is expressed in hours, the whole of Sunday and of any legal holiday, from 12:00 midnight to 12:00 midnight, shall be excluded.
- (2) If the last day within which an act is to be done or a proceeding had or taken falls on a Sunday or legal holiday, the act may be done or the proceeding had or taken on the next secular day.
- (3) When the last day within which a proceeding is to be had or an act done, which consists of any payment to or the service upon or the filing with any officer, agent, agency, department or division of the state or any county, city, village, town, school district or other subdivision of the state, of any money, return, statement, notice or other document, falls on a Saturday and the duly established official office hours of such officer, agent, agency, department or division to which such payment is to be made or with which such return, statement, report, notice or other document is required to be filed do not include any office hours

thereof on such Saturday, the proceeding may be had or taken or such act may be done on the next succeeding day that is not a Sunday or a legal holiday.

- (4) Regardless of whether the time limited in any statute for the taking of any proceeding or the doing of any act is measured from an event or from the date or day on which such event occurs, the day on which such event took place shall be excluded in the computation of such time.
- (5) The term "legal holiday," as used in this definition, means any statewide legal holiday provided in Wis. Stats. § 895.20. When an act is permitted to be done by the use of the postal service and the last day within the time prescribed by law for performing such act falls on a legal holiday designated by the President such that the postal service does not receive registered mail or make regular deliveries on that day, the day shall be considered a legal holiday for the purposes of this definition.

*County.* The term "county" shall mean the County of Racine, Wisconsin.

*Gender, singular and plural.* Every term in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males, and every term imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.

*Month.* The term "month" shall mean a calendar month.

*Oath.* The term "oath" includes an affirmation in all cases where by law an affirmation may be substituted for an oath. If any oath or affirmation is required to be taken, such oath or affirmation shall be taken and administered before an officer authorized by the laws of the state to administer oaths, at the place where the oath is required to be taken or administered, unless otherwise expressly directed, and, when necessary, duly certified by such officer. If an oath is administered, it shall end with the term "so help me God." In actions and proceedings in the courts, a person may taken an oath or affirmation in communication with the administering officer by telephone or audiovisual means.

*Officers and employees.* Whenever any officer or employee is referred to by title, such as "clerk-treasurer" or "health officer," such reference shall be construed as if followed by the term "of the Village of Mount Pleasant, Wisconsin."

*Owner.* The term "owner," as applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

*Person.* The term "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities capable of being sued unless plainly inapplicable.

*Personal property.* The term "personal property" shall include every species of property, except real property.

*Preceding and following.* The terms "preceding" and "following" shall mean next before and next after, respectively.

*Property.* The term "property" shall include real, personal and mixed property.

*Real property.* The term "real property" shall include lands, tenements, hereditaments and all rights and interests thereto and therein.

*Shall.* The term "shall" shall be construed as being mandatory.

*Sheriff.* The term "sheriff" shall be construed as if followed by the term "of Racine County, Wisconsin."

*State.* The term "state" shall mean the State of Wisconsin.

*Street.* The term "street" shall include any highway, court, street, avenue, boulevard, road, alley, lane or viaduct in the village, dedicated or devoted to public use.

*Tenant and occupant.* The terms "tenant" and "occupant," when applied to a building or land, shall include any person holding a written or oral lease thereof or who occupies the whole or part of such building or land, either alone or with others.

*Tense.* Terms used in the past or present tense include the future as well as the past and present.

*Village.* The term "village" shall mean the Village of Mount Pleasant, Wisconsin.

*Wisconsin Statutes and Wis. Stats.* All references to the terms "Wisconsin Statutes" and "Wis. Stats." mean the current edition of the Wisconsin Statutes and includes the most recent biennial session as any statutes amended.

*Written and in writing.* The terms "written" and "in writing" shall include any representation of terms, letters or figures, whether by printing, fax, e-mail or otherwise.

*Year.* The term "year" shall mean a calendar year unless otherwise expressed.  
(Code 1993, § 25.01)

### **Sec. 1-3. Section catchlines and other headings.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any such sections, including the catchlines, are amended or reenacted.

### **Sec. 1-4. History notes.**

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the sections.

### **Sec. 1-5. References to chapters or sections.**

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

### **Sec. 1-6. Editor's notes and references.**

References and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling, nor meant to have any legal effect.

### **Sec. 1-7. Effect of repeal.**

The repeal or amendment of any section or provision of this Code, or of any other ordinance or resolution of the village board, shall not:

- (1) By implication, be deemed to revive any ordinance not in force or existing at the time such repeal or amendment takes effect.
- (2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended unless the privilege of repealing such obligation or privilege has been reserved by the village.
- (3) Affect any offense committed, or penalty or forfeiture incurred previous to the time when any ordinance is repealed or amended, except when any forfeiture or penalty has been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time.
- (4) Affect any prosecution for any offense, or the levy of any penalty or forfeiture pending at the time when any ordinance is repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinance, and such prosecution shall proceed, in all respects, as if such ordinance had not been repealed, except all such proceedings had after the time

this Code takes effect shall be conducted according to the provisions of this Code.  
(Code 1993, § 25.06)

**Sec. 1-8. Certain ordinances not affected by Code.**

All ordinances heretofore adopted by the village board are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.
- (2) Any ordinance promising or guaranteeing the payment of money for the village or authorizing the issuance of bonds or notes of the village, any evidence of the village's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village.
- (3) Any administrative ordinances of the village not in conflict or inconsistent with the provisions of this Code, including, but not limited to, letting contracts without bids and releasing persons from liability.
- (4) Any ordinance dedicating or accepting any plat or subdivision in the village.
- (5) Any ordinance annexing or excluding territory, or extending the boundaries of the village.
- (6) Any ordinance establishing positions, classifying positions or setting salaries of village officers and employees, or any personnel regulations.
- (7) Any temporary or special ordinance, including, but not limited to, the joint sewage agreement and related contracts.
- (8) Any ordinance calling an election.
- (9) Any ordinance authorizing street maintenance agreements.
- (10) Any ordinance regarding the lighting of streets and alleys.
- (11) Any ordinance naming public grounds and parks.
- (12) Any ordinance regarding the establishment of wards, ward boundaries, aldermanic districts, aldermanic district boundaries and election precincts.
- (13) Any charter ordinance unless repealed by a charter ordinance.
- (14) Any ordinance releasing persons from liability.

(15) The village's schedules of fees and charges.

(16) Any currently effective resolutions.

All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code. All ordinances are on file in the clerk-treasurer's office.  
(Code 1993, § 25.05)

**Sec. 1-9. Provisions considered as continuation of existing ordinances.**

The provisions appearing in this Code, as far as they are the same as those of the Code of the Village of Mount Pleasant, Wisconsin, and of ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not new enactments.

**Sec. 1-10. Code does not affect prior offenses, rights, etc.**

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

**Sec. 1-11. Clerk-treasurer to file documents incorporated by reference.**

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth in this Code, and the clerk-treasurer shall file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records, open for examination with proper care by any person during the clerk-treasurer's office hours, subject to such orders or regulations which the clerk-treasurer may prescribe for preservation of such materials.  
(Code 1993, § 25.03)

**Sec. 1-12. Severability of parts of Code.**

(a) *Conflict of provisions.* If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

(b) *Separability of provisions.* If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase, or portion thereof. The village board hereby declares that it would have passed this Code and each section, subsection, sentence, clause or phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases, or portions thereof, may be declared invalid or unconstitutional.  
(Code 1993, § 25.02)

### **Sec. 1-13. Amendments to Code.**

As each ordinance or resolution affecting this Code becomes effective, the clerk-treasurer shall forward such ordinance or resolution to the revisor, who shall incorporate it into the Code. The revisor shall make no substantive changes to such ordinances and resolutions, but may renumber, rearrange and edit them without first submitting them to the village board, and such rearranging, renumbering and editing shall not affect the validity of such ordinances and resolutions or the provisions of this Code affected thereby.  
(Code 1993, § 25.08)

### **Sec. 1-14. Supplementation of Code.**

(a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village board. A supplement to this Code shall include all substantive permanent and general parts of ordinances passed by the village board or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in this Code, and shall also include all Charter ordinances adopted or amended during the period. The pages of a supplement shall be numbered so that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be prepared so that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the term "this ordinance," or terms of the same meaning, to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ through \_\_\_\_\_," inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and

- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Sec. 1-15. General penalty.**

(a) Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty as follows:

- (1) *First offense.* Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$50.00, nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
- (2) *Second offense.* Any person found guilty of violating any ordinance or part of an ordinance of this Code, who has previously been convicted of a violation of the same ordinance within one year, shall, upon conviction thereof, forfeit not less than \$100.00, nor more than \$500.00, for each such offense, together with the costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six months.

(b) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(c) Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

(Code 1993, § 25.04)

**Sec. 1-16. Authority to issue citations; form.**

(a) Pursuant to Wis. Stat. § 66.013, in addition to law enforcement officers, the following village officials and their designees are authorized to issue citations for ordinance violations directly related to their official responsibilities:

- (1) Zoning administrator.
- (2) Plumbing inspector.
- (3) Fire inspector.
- (4) Health services coordinator.
- (5) Building inspector.
- (6) Highway foreman

(7) Director of Engineering

- (b) The form of the citation issued under this section shall include all of the information required by Wis. Stat. §800.02.

**Sec. 1-17. Penalties for nonpayment of any invoice; notice.**

(a) *Delinquent charges.* All engineering, paving and other charges for services provided by the village shall be invoiced by the Village of Mount Pleasant promptly, and shall include notice of late payment penalty. Any customer who fails to pay such invoices within a 30-day period shall pay a penalty as authorized at 1 1/2 percent cumulative interest rate per month (prorated from 30days after the date of the original invoice).

(b) *Notice of delinquency.* The Village of Mount Pleasant Finance Department will give notice not later than October 15th of each year to the owner/developer of such lot(s) or subdivision in the village to which the village has furnished services prior to October 1st of that year for which payment is owed and in arrears at the time of giving the notice.

- (1) The notice shall state the amount in arrears, including any penalty assessed pursuant to the ordinance; and that unless the amount is paid by November 1st, an administrative charge of \$75.00 will be added. Unless the amount in arrears and any added penalty are paid by November 15th, the amount in arrears and any added penalty will be levied on the tax roll as a special charge against the lot or a parcel of real estate to which service was furnished and for which payment is delinquent.

(c) *Certificate of delinquency.* On November 16th, or as soon thereafter as is practicable, the finance department shall provide the village clerk-treasurer a list of all lots or parcels of real estate (giving the legal description of each) and/or developers or individuals for which notice of arrears has been made; and any added charges given with respect to any added unpaid arrearage, stating the amount of arrearage and added administrative charge of \$75.00.

(d) The village clerk-treasurer shall insert the total delinquent amount including an added administrative charge of \$75.00 as a special charge against the lot or parcel of real estate. The village shall thereafter take reasonable actions to collect the delinquent amounts, including interest. Upon collection of any delinquent amounts, including interest, the village shall promptly pay such amounts due to our current consulting engineer.  
(Ord. No. 6-2008, 6-9-2008)

## Chapter 2

### ADMINISTRATION\*

\* **Cross References:** Any administrative ordinances of the village not in conflict or inconsistent with the provisions of this Code, including but not limited to letting contracts without bids and releasing persons from liability saved from repeal, § 1-8(3); court, ch. 18; elections, ch. 22; fees and charges, ch. 30; administration and enforcement of minimum property standards, § 38-61 et seq.; law enforcement, ch. 42; administration and enforcement of subdivisions, § 74-41 et seq.; utilities, ch. 82; administration and enforcement of sewer use, § 82-51 et seq.; administration and enforcement of pretreatment, § 82-161 et seq.; administration of zoning, § 90-41 et seq.

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 2-1.	Effective date of ordinances.		
Sec. 2-2.	Fiscal year.		
Sec. 2-3.	Elected officials.	<i>Charter 01-2010</i>	<i>01/11/10</i>
Sec. 2-4.	Appointed officials/department heads.	<i>Charter 01-2010</i> <i>19-2016</i>	<i>01/11/10</i> <i>12/12/16</i>
Sec. 2-5.	Oaths and bonds.		
Sec. 2-6.	Removal from office.		
Sec. 2-7.	Vacancies in office.		
Sec. 2-8.	Salaries.		
Sec. 2-9.	Receipt of gifts and gratuities.		
Sec. 2-10.	Facsimile signatures.		
Sec. 2-11.	Use of village equipment.		
Secs. 2-12.	Retention of public records.	<i>03-2010</i>	<i>03/08/2010</i>
Secs. 2-13 – 2-40.	Reserved.		
<b>Article II. Village Board</b>			
Sec. 2-41.	Composition; election; term of office.	<i>13-2014</i> <i>Charter 04-2015</i>	<i>9/22/14</i> <i>07/13/15</i>
Sec. 2-42.	Powers.		
Sec. 2-43.	Meetings.	<i>05-2013</i> <i>13-2014</i> <i>03-2017</i>	<i>11/11/13</i> <i>09/22/14</i> <i>03/13/17</i>
Sec. 2-44.	Presiding officer.		
Sec. 2-45.	Quorum.		
Sec. 2-46.	Conduct of deliberations.	<i>02-2011</i> <i>13-2014</i>	<i>01/24/11</i> <i>13-2014</i>
Sec. 2-47.	Reconsideration of questions.		
Sec. 2-48.	Amendment of rules.		
Sec. 2-49.	Suspension of rules.		
Sec. 2-50 - 2-80.	Reserved.		
<b>Article III. Officers and Employees</b>			
<b>Division 1. Generally</b>			
<b>Code of Ethics</b>			
Sec. 2-81.	Purpose.	<i>11-2014</i>	<i>07/14/14</i>
Sec. 2-82.	Policy.	<i>11-2014</i>	<i>07/14/14</i>
Sec. 2-83.	Definitions.	<i>11-2014</i>	<i>07/14/14</i>

Sec. 2-84.	Prohibited conduct.	11-2014	07/14/14
Sec. 2-85.	Action upon conflict of interest.	11-2014	07/14/14
Secs. 2-86 – 2-100.	Reserved.		

#### **Division 2. Personnel**

Secs. 2-101 – 2-120.	Reserved.
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#### **Division 3. Clerk-Treasurer**

Sec. 2-121.	Clerk's powers and duties.
Sec. 2-122.	Treasurer's powers and duties.
Sec. 2-123.	Clerk-treasurer's bond; liability for default.
Sec. 2-124.	Temporary investment of funds not immediately needed.
Secs. 2-125 – 2-150.	Reserved.

#### **Division 4. Assessor**

Sec. 2-151.	Appointment.
Secs. 2-152 – 2-180.	Reserved

### **Article IV. Boards, Commissions and Committees**

#### **Division 1. Generally**

Secs. 2-181 – 2-200.	Reserved.
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#### **Division 2. Plan Commission**

Sec. 2-201.	In general.
Secs. 2-202 – 2-220.	Reserved.

#### **Division 3. Zoning Board of Appeals**

Sec. 2-221.	Composition
Secs. 2-222 – 2-240.	Reserved.

#### **Division 4. Board of Review**

Sec. 2-241.	Created; terms of office; compensation; officers; reports; meetings; income and expense information; appeals.
Secs. 2-242 – 2-250.	Reserved.

#### **Division 5. Civic Affairs Committee**

Sec. 2-251.	Civic Affairs Committee.
Secs. 2-252 – 2-270.	Reserved.

### **Article V. Finance**

Sec. 2-271.	Budget.
Sec. 2-272.	Budget changes.
Sec. 2-273.	Funds to be spent in accordance with

Sec. 2-274.	appropriations.		
	Repealed.	04-2011	03/14/11
Secs. 2-275 – 2-300.	Reserved.		

**Article VI. Tax**  
**Division 1. Generally**

Sec. 2-301.	Preparation of tax roll and tax receipts.
Secs. 2-302 – 2-320.	Reserved.

**Division 2. Room Tax**

Sec. 2-321.	Purpose.
Sec. 2-322.	Definitions.
Sec. 2-323.	Imposed.
Sec. 2-324.	Due date; collection.
Sec. 2-325.	Permit.
Sec. 2-326.	Liability.
Sec. 2-327.	Records.
Sec. 2-328.	Assessments.
Sec. 2-329.	Delinquent returns and taxes.
Sec. 2-330.	Violations; penalties.
Secs. 2-331 – 2-360.	Reserved.

**Article VII. Claims**

Sec. 2-361.	System of approval.
Sec. 2-362.	Payments.
Sec. 2-363.	Annual audit.
Sec. 2-364.	Fidelity bond.
Secs. 2-365 – 2-400.	Reserved.

**Article VIII. Public Records**

Sec. 2-401.	Destruction of obsolete public records.
Sec. 2-402 – 2-499.	Reserved.

**Article IX. Public Contracts**

		08-2012	09/24/12
Sec. 2-501.	Public contractor qualification.	08-2012	09/24/12
Sec. 2-502.	Final acceptance of construction of public facilities	08-2012	09/24/12

**ARTICLE I.**  
**IN GENERAL**

**Sec. 2-1. Effective date of ordinances.**

Unless otherwise provided, all ordinances shall be in effect and in force from and after passage and posting of such ordinances, and published copies thereof shall have appended thereto the date of first publication.  
(Code 1993, § 2.07)

**Sec. 2-2. Fiscal year.**

The calendar year shall be the fiscal year.  
(Code 1993, § 3.02)

**Sec. 2-3. Elected officials.**

The elected officials of the village shall be the:

- (1) Village president;
  - (2) Trustees, at large (six); and
  - (3) Municipal judge, multijurisdictional.
- (Code 1993, § 1.01)

**Sec. 2-4. Appointive officers/department heads.**

(a) *Appointed officers.* Appointive Officers of the Village of Mt. Pleasant shall be defined as follows:

Village Administrator  
Community Development Director  
Chief of Police Department  
Chief of Fire Department  
Village Clerk  
Village Treasurer

"Appointed Officers" other than Police and Fire shall be appointed by a majority vote of the Village Board for an indefinite term, serving at the pleasure of the Village Board pursuant to Sec. 17.13(1), Wis. Stats. The Village Board may appoint one person for

Village Clerk and Treasurer or may appoint separate individuals for each separate position (Clerk and/or Treasurer).

(b) *Department heads.* Department heads of the Village of Mt. Pleasant shall be defined as follows:

Village Administrator  
Community Development Director  
Chief of Police  
Chief of Fire Department  
Chief Building Inspector  
Highway Foreman  
Village Engineer/Utilities Manager  
Finance Director  
Human Resources Director  
Village Clerk/Treasurer  
IT Director  
Municipal Court Clerk

(c) The Village Clerk shall:

1. Perform duties as outlined in Wisconsin State Statutes sec. 61.25 as amended.

(d) The Village Treasurer shall:

1. Perform duties as outlined in Wisconsin State Statutes sec. 61.26 as amended.

(e) Should any section, clause or provision of this charter ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

(f) All ordinances in conflict with any provisions of this charter ordinance are hereby repealed.

(g) This charter ordinance shall take effect sixty (60) days after its passage and publication, unless within such sixty days a referendum petition is filed as provided In Section 66.0101, Wis. Stats., in which event this charter ordinance shall not take effect until submitted to a referendum and approved by a majority of electors voting thereon as provided by Section 66.0101, Wis. Stats.

## **Sec. 2-5. Oaths and bonds.**

Elected and appointed officials shall take and file the official oath within five days after

notice of their election or appointment and shall execute and file the official bond as required by statute and this Code.  
(Code 1993, § 1.03)

#### **Sec. 2-6. Removal from office.**

(a) *Elected officials.* Elected officials may be removed from office by the village board as provided in Wis. Stats. § 17.13(2), or by the judge of the circuit court for cause pursuant to Wis. Stats. § 17.13(3), or as provided by Wis. Stats. § 17.16.

(b) *Appointed officials.* Appointed officials may be removed from office as provided in Wis. Stats. §§ 17.13(1), (3) and 17.16.  
(Code 1993, § 1.04)

#### **Sec. 2-7. Vacancies in office.**

(a) *Causes.* Vacancies in elective and appointive positions are caused as provided in Wis. Stats. §§ 17.03 and 17.035.

(b) *Filling.* Vacancies in elective and appointive offices shall be filled as provided in Wis. Stats. § 17.24.  
(Code 1993, § 1.05)

#### **Sec. 2-8. Salaries.**

The salaries of all elected and appointed officials, including members of boards and commissions, shall be as determined by the village board, when authorized under Wis. Stats. § 61.32, provided salaries and compensation rates of elected officials shall not be increased or reduced during such officials' terms of office.  
(Code 1993, § 1.06)

#### **Sec. 2-9. Receipt of gifts and gratuities.**

(a) *Restricted.* No village employee or official shall receive or offer to receive, either directly or indirectly, any gift, gratuity or other thing of value which he is not authorized to receive from any person who:

- (1) Has or is seeking to obtain contractual or other business or financial relationships with the village or village board;
- (2) Conducts operations or activities which are regulated by the village or village board; or

- (3) Has interests which may be substantially affected by the village or village board.

(b) *Penalty.* The receipt of any gift, gratuity or other thing of value as denoted in subsection (a) of this section is contrary to the public policy of the village and is punishable as provided in Wis. Stats. § 946.12 and section 1-15.  
(Code 1993, § 1.07)

#### **Sec. 2-10. Facsimile signatures.**

(a) In lieu of the personal signatures of the president and clerk-treasurer on any and all order checks of the village drawn upon any depository of the funds of the village, the facsimile signature of the president and/or the clerk-treasurer may be affixed to any such order check.

(b) This section is enacted in accordance with the provisions of Wis. Stats. § 66.0607(3), and this section shall remain in full force and effect with respect of each depository of the funds of the village until such depository is notified that this section has been amended or rescinded.  
(Code 1993, § 3.10)

#### **Sec. 2-11. Use of village equipment.**

No individual shall use village equipment without proper authorization from the village foreperson, department head or official. Operation of any such equipment by a nonqualified person, including persons without a proper license, experience or other relevant and necessary qualifications, is prohibited.  
(Code 1993, § 11.20)

#### **Sec. 2-12. Retention of public records.**

(a) *Purpose.* Pursuant to Sec. 19.21, Wis. Stats., this ordinance authorizes the transfer or destruction of obsolete records.

(b) *Definitions.*

(1) *Legal Custodian.* The individual responsible for maintaining records pursuant to Sec. 19.33, Wis. Stats.

(2) *Record.* The meaning as defined in Sec. 19.32(2), Wis. Stats.

(c) *General Retention Period.* Unless a different retention period is specifically adopted in the Records Retention Schedule or required by Wisconsin Statutes, all records shall be retained at least seven years before destruction.

(d) Records Retention Schedule. The schedule of retention periods differing from the period prescribed in Subsection (3) above shall be listed in the Records Retention Schedule of the Village of Mount Pleasant which shall be on file in the office of the Village Clerk, who shall keep the same current at all times by such revision as is required by additions, deletions, and amendments adopted by the Village Board by ordinance from time to time.

(e) Notification of State Historical Society. At least 60 days prior to the destruction of any records pursuant to this section, the legal custodian shall notify the State Historical Society of Wisconsin in writing, unless the State Historical Society has waived notice for the type of records to be destroyed as indicated in the Records Retention Schedule.

(f) Destruction Pending Litigation. Notwithstanding the above, no record subject to pending litigation shall be destroyed until the litigation is resolved.

### *Section 2. Legal Custodian(s)*

(a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the Village Clerk or Deputy Clerk to act as the legal custodian.

(b) Unless provided in Subsection (c), the Village Clerk or Deputy Clerk shall act as legal custodian for the Village and for any committees, commissions, boards, or other authorities created by Ordinance or resolution of the Village Board. The following offices or authorities shall have as a legal custodian of records the individual so named.

#### Authority Designated Legal Custodian

General Village Records	Village Clerk or Deputy Clerk
Police Department Records	Chief of Police

(c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his or her absence, or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the Village Administrator.

(e) The Village Clerk shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis.

**Secs. 2-13--2-40. Reserved.**

## ARTICLE II.

### VILLAGE BOARD

#### **Sec. 2-41. Composition; election; term of office.**

The Village Board shall consist of six Trustees and the Village President, who shall be, by virtue of the office, a Trustee. Three trustees shall be elected at each annual spring election for a term of two years, commencing on the third Tuesday of April in the year of their election. Effective with the Village's Spring 2016 Primary Election and the 2016 Regular Spring Election, Village Trustees shall be nominated and elected for non-partisan primaries and elections at large by numbered seats. Prior to the nomination period for the 2016 election, the Village Board shall assign seats numbered two (2), four (4), and six (6) to the offices up for election in 2016 and seats numbered one (1), three (3), and five (5) to the offices up for election in 2017. The Village Board shall determine the manner in which the three (3) even-numbered seats and the three (3) odd-numbered seats are assigned to particular Trustees. Notwithstanding any other provision of law to the contrary, no person shall be eligible to be nominated, elected or to serve in more than one (1) of the numbered seats for the office of Trustee of the Village of Mount Pleasant at the same time. The Village President shall be elected in odd-numbered years to a term of two years. (Code 1993, § 2.01)

#### **Sec. 2-42. Powers.**

The village board shall have all powers of the village not specifically given to some other body or officer. Except as otherwise provided by law, the village board has power over property, finances, highways, streets, utilities and the public service and may act for the government and good order of the village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulations, suppression, borrowing, taxation, special assessment, appropriation, imposition of forfeitures and other necessary or convenient means. The village board may appoint such officials from time to time as may be deemed necessary for the benefit of the community. In addition, the village board shall have the powers enumerated in Wis. Stats. § 61.34. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language. (Code 1993, § 1.10)

#### **Sec. 2-43. Meetings.**

(a) *Regular meetings.* Regular meetings of the Village Board shall be held on the second and fourth Mondays of each calendar month, at 6:30 p.m., or such other time as may be established by the Village Board providing appropriate notice is given in advance of the meeting. Any regular meeting falling on a legal holiday shall be held on such date as designated by the Village Board at the same hour and place. Unless otherwise specified, all meetings of the Board, including special and adjourned meetings, shall be held in the Village Hall. The following

protocol is adopted for the conduct of Village Board meetings:

- (1) These rules shall remain in effect until repealed or amended by the Village Board and may be amended from time to time by the Village Board in accordance with Section 2-48.
- (2) Whenever a majority vote is required hereinafter, the same shall mean a majority vote of the Village Board present at a meeting of the Village Board.
- (3) The Village Administrator, in consultation with the Village President, shall administratively prepare the written agenda for meetings of the Village Board.
- (4) Any member of the Village Board may request an item to be placed on the agenda by contacting the Village President. Any two members of the Village Board may compel an item to be placed on the agenda.
- (5) Oral communications by the public to the Village Board at the meeting of the Board are encouraged, and shall be permitted only in the following manner:
  - a. Public Comment Agenda Item
    1. Under the agenda item "Public Comment," speakers recognized by the President or presiding officer may address any item. Speakers addressing the Village Board shall try to limit their remarks to three minutes. It shall be the prerogative of the President or presiding officer to allow additional time if circumstances warrant. Speakers shall state their name and address before addressing the Village Board.
    2. The overall length of the Public Comment agenda item shall not exceed 30 minutes per meeting.
    3. Comments shall be directed to topics subject to Board action and relating to the Village.
    4. All comments allowed are for the purpose of granting citizens the opportunity to be heard, to express their views and to inform the Village Board. In no case shall the same be in the nature of engaging others in public debate.

5. Decorum shall be maintained by using mutually respectful language, behavior and non-abusive criticism. Foul language is not permitted.
6. Comments shall not deal in personalities or personal attacks on others, but focus on issues of broad concern to the Village.
7. All remarks shall be addressed to the body through the President or presiding officer; at the discretion of the President or presiding officer, individual Village Board members may question a speaker during the Public Comment section. The Village Board shall take no action and make no decision on any item presented during the "Public Comment" section. Instead, the Village Board may direct appropriate staff to gather additional information on the item, or may schedule the matter for Board discussion at a later date.

b. Discussions Relating to Specific Agenda Items

After the Village Board's discussion of any agenda item, the President or presiding officer, at his or her discretion, may recognize any speaker having pertinent information relating to the agenda item and allow the speaker to address the Village Board. Speakers shall state their name and address before addressing the Village Board. Speakers shall try to limit their remarks to three minutes. It shall also be the prerogative of the President or presiding officer to allow additional time if circumstances warrant, and to permit individual Village Board members to question the speaker regarding the particular agenda item being discussed.

(6) All meetings of the Village Board shall be transacted as far as practical in the following order subject to the rules of the Village Board:

- a. Roll Call;
- b. Pledge of Allegiance;
- c. Community Project Updates
- d. Public Comment and Input;
- e. Consent Agenda;
- f. New Business;
- g. Administrator/Staff Reports;

- g. Trustees' and President's Reports;
- h. Executive/Closed Session (if necessary);
- i. Adjournment - The Village Board may adjourn from time to time to a specific date and hour, upon a majority vote of the members present, but not less than three affirmative votes.
- j. The Village Board may, by motion, second and majority vote waive any of the above.

- (7) No new item shall be considered by the Village Board after 10:00 p.m., unless a majority of the Village Board votes to consider said item.

(b) *Open meetings; public notice.* All meetings of the Village Board, committees, boards, and commissions shall be open to the public and preceded by public notice as provided in Wis. Stat. §19.84.

(c) *Closed meetings.* Whenever the Village Board or any other commission or entity subject to the open meeting laws of the state shall lawfully declare the necessity of holding a closed meeting pursuant to Wis. Stat. § 19.85, each member and all others present at such meeting shall keep confidential and not reveal the substance of the meeting until such time that the matter has been reported out by the Village Board or other commission or entity acting in open session. For the purposes of this subsection, the term "confidential" means the release of any information to unauthorized third persons concerning the subject matter of the meeting. (Code 1993, § 2.02; Ord. No. 7-2003, 7-28-2003; Ord. No. 8-2008, 7-14-2008)

#### **Sec. 2-44. Presiding officer.**

(a) *Designated.* At the stated hour, the president shall call the meeting to order. If the president is absent at the designated time of any meeting, the senior trustee present, based on the date of original election, shall serve as acting president for that meeting.

(b) *Duties.* The presiding officer shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meeting.

(c) *Appeals of decisions.* Any member may appeal from a decision of the presiding officer. An appeal shall be sustained by a two-thirds vote of the members, excluding the presiding officer. (Code 1993, § 2.03)

#### **Sec. 2-45. Quorum.**

A majority of the members of the village board shall constitute a quorum. (Code 1993, § 2.04)

**Sec. 2-46. Conduct of deliberations.**

Deliberations of the Village Board shall be conducted in the following manner:

- (1) Robert's Rules of Order shall govern the conduct of all Village Board meetings as far as such rules are not inconsistent with other rules of the Village or statute.
- (2) An agenda for each meeting shall be prepared not less than 72 hours before such regular meeting of the Village Board, and notice of the meeting and the agenda shall be given to the public in accordance with law. The agenda shall provide for a time during the Village Board meeting when the public may be heard concerning any matter which is relevant to the conduct of Village business.
- (3) Trustees shall not address the Village Board until they have been recognized by the President or presiding officer. Trustees shall then address the President or presiding officer and confine their remarks to the question under discussion.
- (4) When two or more members simultaneously seek recognition, the President or presiding officer shall name the member who is to speak first.
- (5) No motion shall be discussed or acted upon until it has been seconded, unless the rules permit one Trustee to initiate action. No motion shall be withdrawn without the consent of the person making the motion and the person seconding it.
- (6) When a question is under discussion, no action shall be in order, except the following motions, which shall have precedence in the order listed:
  - a. To adjourn;
  - b. To lay on the table;
  - c. To move the previous question;
  - d. To postpone to a certain day;
  - e. To refer to a committee;
  - f. To amend; or
  - g. To postpone indefinitely.

- (7) Any Trustee may demand a roll call vote on any matter, and such vote shall be entered in the proceedings. A majority vote of all members of the Village Board in favor of any proposed ordinance, resolution or appointment shall be necessary for passage or approval, unless a larger number is required by law. A majority vote of the members present shall prevail in other cases.
- (8) No Trustee shall withdraw from any Village Board meeting before adjournment without permission of the presiding officer.
- (9) A motion to adjourn shall always be in order; and a motion to adjourn, to lay on the table, and a call for the previous question shall be decided without debate. (Code 1993, § 2.05)

**Sec. 2-47. Reconsideration of questions.**

Any member voting with the majority may move for a reconsideration of the vote on any question at that meeting or the immediately succeeding meeting. A motion to reconsider being put and lost shall not be renewed.  
(Code 1993, § 2.06)

**Sec. 2-48. Amendment of rules.**

The rules set forth in this article shall not be rescinded or amended unless the proposed amendment or motion to rescind has laid over from a regular meeting, and then it shall require a vote of two-thirds of all the members of the village board.  
(Code 1993, § 2.08)

**Sec. 2-49. Suspension of rules.**

The rules set forth in this article, or any part thereof, may be temporarily suspended in connection with any matter under consideration by a recorded vote of two-thirds of the members present.  
(Code 1993, § 2.09)

**Secs. 2-50--2-80. Reserved.**

## **ARTICLE III.**

### **OFFICERS AND EMPLOYEES\***

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\* **Cross References:** Any ordinance establishing positions, classifying positions, or setting salaries of village officers and employees, or any personnel regulations saved from repeal, § 1-8(6); municipal judge and municipal court, § 18-1; assistant fire chief, § 34-46; assistant chief of support services, § 34-47; lieutenant of the fire department, § 34-48; fire inspector, § 34-55; zoning administrator, § 90-41.

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#### **DIVISION 1.**

#### **GENERALLY**

##### **Code of Ethics**

##### **Sec. 2-81. Purpose.**

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the best interest of the people, the community and the government and in the proper channels of governmental structure; that public offices and employment not be used for personal gain, and that the public have confidence in the integrity of its government. To assist in attaining these goals, there is established a Code of Ethics for all Mt. Pleasant ("Village") officials, including members of boards, committees, commissions, the Village President and employees, whether elected or appointed, paid or unpaid.

##### **Sec. 2-82. Policy.**

(a) The purpose of this code is to establish guidelines for ethical standards of conduct for all Village officials and employees by setting forth those acts or actions which are incompatible with the best interests of the Village and by requiring such officials and employees to disclose personal interests, financial or otherwise, that could possibly be a conflict of interest in matters requiring them to take action or make a decision.

(b) Nothing contained in this code is intended to deny to any individual the rights granted by the United States Constitution, the constitution of this state, the laws of this state or labor agreements between the Village and its bargaining units.

##### **Sec. 2-83. Definitions.**

The following definitions shall be applicable in this code:

*Anything of value* means any money or property, favor, gift, service, payment, advance, forbearance, loan or promise of future employment, including, but not limited to, remuneration,

tickets, passes, lodging, travel, recreational expenses and admission offered and provided by persons doing business or interested in doing business with the Village. “Anything of value” does not include compensation and expenses paid by the Village of Mt. Pleasant, fees and expenses which are permitted and reported under Wis. Stats. § 19.56, political contributions which are reported under Chapter 11 of the state statutes, or hospitality expended for a purpose unrelated to public business by a person other than an organization.

*Associated* (when used with reference to an organization) includes any organization in which an individual or a member of the individual’s immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least ten percent of the outstanding equity or of which an individual or member of the individual’s immediate family is an authorized representative or agent.

*Business* means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages in profit-making activities.

*Candidate for elective office* means any person who files nomination papers and a declaration under Wis. Stats. § 8.10 for the purpose of appearing on the ballot for election to an office in the Village of Mt. Pleasant or any person nominated for a Village office in an election through the write-in process and who files a declaration pursuant to Wis. Stats. § 8.10.

*Confidential information* means written material or oral information related to Village government, which is not otherwise subject to the public records law and which is expressly designated or marked as confidential.

*Conflict of interest* means a public official’s act or failure to act in the discharge of his/her official duties which could reasonably be expected to produce or assist in producing a substantial economic or personal benefit for such official, his/her immediate family or an organization with which he/she is associated.

*Economic interest* means any interest that will yield directly or indirectly a monetary or other material benefit to the public official or to any person employing or retaining the services of the public official, or any member of the immediate family of said public official, except as permitted by Wis. Stats. § 946.13.

*Financial interest* means any interest which would yield, directly or indirectly, a monetary or other material benefit to the public official or his/her spouse or to any person employing or retaining the services of the public official or his/her spouse.

*Gift* means the payment or receipt of anything of value without valuable consideration.

*Immediate family* means:

- (a) An individual's spouse; and

- (b) An individual's relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than one-half of his or her support from the individual or from whom the individual receives, directly or indirectly, more than one-half of his or her support.

*Income* means the meaning given under the Federal Internal Revenue Code.

*Incompatibility* means a conflict between one's official responsibilities and personal or economic interest which would prevent the public official from the complete and proper discharge of his/her official duties.

*Organization* means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual, body politic or charitable entity.

*Person* means any natural person, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, joint venture, trust, or other legal entity recognized as such by the laws of the state.

*Privileged information* means information obtained under government authority which has not become a part of the body of public information.

*Public official* means any person holding an elected Village office and candidates for elected Village office, any person holding an appointed Village office, all Village department heads, administrative managers, Village employees, and persons appointed by the President or Village Board to advisory boards, commissions, committees or panels.

*Valuable and sufficient consideration* means payment or compensation of an amount equivalent to the actual value of any item received. If the actual value cannot be determined, payment or compensation of a reasonable value is acceptable.

## **Sec. 2-84. Prohibited conduct.**

(a) *Violation of work rules.* Appointed officials and employees shall adhere to the rules of work and performance standards established for their positions. Officials and employees shall not exceed their authority or breach the law or ask others to do so. They shall cooperate with public officials and employees from other governmental bodies, agencies, or jurisdictions unless prohibited by law from doing so. They shall not disclose confidential information or privileged information gained in the course of, or by reason of their official positions or official activities.

(b) *Use of office for private gain.* Public officials may not use their public position or office to obtain financial gain or anything of substantial value for the private benefit of themselves or their immediate family, or for an organization with which they are associated. This includes the acceptance of free or discounted admissions to athletic or other entertainment events.

This provision does not prohibit public officials from accepting complimentary tickets or invitations to dinners and similar functions when invited in their official capacity.

Local public officials are not prohibited from using the title or prestige of their offices to obtain campaign contributions that are permitted and reported as required by Wis. Stat. Ch.11.

(c) *Offering or receiving anything of value.* No person may offer or give to a public official, directly or indirectly, and no public official may solicit or accept from any person, directly or indirectly, anything of value if it reasonably could be expected to influence the public official's vote, official actions or judgment, or reasonably could be considered as a reward for any official action or inaction on the part of the official.

Candidates for office or public officials may not utilize their vote to influence or promise to take or refrain from taking official action on matters under consideration or upon condition that any person make or refrain from making a political contribution or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under Wis. Stat. § 11.05, or any person making a communication that contains a reference to a clearly identified public official or candidate for public office.

(d) *Taking action affecting a matter in which an official has financial interest.* Public officials may not take any official action that substantially affects a matter in which the official, a member of the official's immediate family, or an organization with which the official is associated has a substantial financial interest. Nor, may the official's office be used in a way that directly or indirectly produces or assists in the production of a substantial benefit for the official, or one or more members of the official's immediate family, or an organization with which the official is associated.

However, public officials are not prohibited from taking any action concerning the lawful payment of salaries, employee benefits or reimbursement of actual and necessary expenses. Nor are the officials prohibited from taking official action with respect to any proposal to modify Village ordinances.

(e) *Use and Disclosure of Confidential Information.* Public officials shall not knowingly use confidential information for actual or anticipated personal gain or for the actual or anticipated gain of any other person. Nor shall public officials, without proper legal authorization, disclose confidential information gathered in the course of public employment to an unauthorized person.

(f) *Issuance of permits.* Public officials empowered to issue a discretionary permit pursuant to either state or local laws or regulations shall not issue any such permit to themselves or to any member of that public official's immediate family without first revealing in writing the request for such permit to that person's immediate supervisor or to the Village Board committee that regulates the subject of such permit.

(g) *Bribery.* Public officials and employees are prohibited from accepting any money, property or other personal advantage they are not authorized to receive from anyone who promises this with the intention of influencing the public official or employee's conduct regarding any matter in which law is pending.

(h) *Misconduct in office.* Public officials and employees are prohibited from:

- (1) Intentionally failing or refusing to perform a known mandatory, nondiscretionary ministerial duty of their office or employment within the time or in the manner required by law.
- (2) Performing an act knowingly in excess of their lawful authority or one in which they know they are forbidden by law to do in their official capacity.
- (3) Whether by act of commission or omission, exercising a discretionary power in a manner inconsistent with the duties of their office or employment or the rights of others and with intention to obtain a dishonest advantage for themselves or another.
- (4) Intentionally falsifying an account, record book, return, certificate, report or statement in the officers' or employees' official capacity.
- (5) Intentionally soliciting or accepting anything of value, known by the officers or employees to be greater or less than is fixed by law, for the performance of any service or duty.
- (6) Using Village property in a manner that is prohibited by policy, or that causes unnecessary costs, congestion, disruption or damage to Village property, or other inappropriate uses which include, but are not limited to:
  - a. Intentionally or unintentionally permitting the use of Village property, equipment or vehicles by unauthorized persons;
  - b. Using Village logos or titles to misrepresent materials as official or misrepresenting, either implicitly or explicitly, personal views or comments as an official Village policy or position;
  - c. Using property owned by the Village or services paid for with Village funds for personal gain or to maintain or support a private business;
  - d. Violating any portion of the Village's "computer hardware and software policies."

(i) *Nepotism.* Public officials and employees are prohibited from:

- (1) Using their public office to obtain employment for the officials' spouses or dependent relatives. However, if the official is not involved in the hiring, promotion or conditions of employment, a qualified spouse or dependent may be hired or promoted.
- (2) Advocating for or hiring or promoting, or exercising jurisdiction, supervision or direction over someone the official is related to as a parent, grandparent, child, grandchild, sibling, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew or spouse.

(j) *Incompatibility of offices.* Officials or employees shall not engage in or accept private employment or render service, for private interest, when such employment or service conflicts with the proper discharge of their official duties or would tend to impair such officials' or employees' independence or judgment or action in the performance of such duties, unless otherwise permitted by law and unless disclosure is made as herein provided.

(k) *Statutory Standards of Conduct.* There are certain provisions of the Wisconsin Statutes which should, while not set forth herein, be considered an integral part of any Code of Ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are made a part of the Code of Ethics and shall apply to public officials and employees whenever applicable, to wit:

- |     |                    |  |
|-----|--------------------|--|
| (1) | Sec. 19.41 – 19.59 | State Ethics Law                               |
| (2) | Sec. 946.10        | Bribery of Public Officers and Employees       |
| (3) | Sec. 946.12        | Misconduct in Public Office                    |
| (4) | Sec. 946.13        | Private Interest in Public Contract Prohibited |

(l) *Post employment.*

- (1) No former Village public official, for twelve (12) months following the date on which he or she ceases to be a Village public official, may, for compensation on behalf of any person other than a governmental entity, make any formal or informal appearance before or try to settle or arrange a matter by calling, writing, or conferring with, any officer or employee of the department with which he or she was associated as a Village public official.
- (2) No former Village public official, for twelve (12) months following the date on which he or she ceases to be a Village public official, may, for compensation on behalf of any person other than a governmental entity, make any formal or informal appearance before, or try to settle or arrange a matter by calling, writing, or conferring with, any officer or employee of a department in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding in which the former Village public official

participated personally and substantially in his or her former official capacity.

**Sec. 2-85. Action upon conflict of interest.**

(a) If any Village officer or employee who, in the discharge of official duties, is required to take an action that is prohibited by this article, and which would result in a conflict of interest, such Village officer or employee:

- (1) Shall not take such action;
- (2) Shall prepare a written statement describing the matter requiring action or decision, and the nature of the possible conflict of interest with respect to such action or decision;
- (3) Shall deliver copies of such statement to his/her immediate superior, if any.
- (4) In the case of a Trustee, may deliver a copy of such statement to the Village Administrator and Village Board. The Village Clerk/Treasurer shall cause such statement to be printed in the official proceedings and, upon request, such Trustee shall be excused from voting, deliberating and taking other actions on the matter on which a possible conflict exists.

(b) If the Village officer or employee is not a Trustee, his superior, if any, shall assign the matter to another employee who does not have a possible conflict of interest. If the Village officer or employee has no immediate superior, he/she may request permission from the Administrator to seek advice from a Village Attorney concerning the potential need to remove himself or herself from influence over actions and decisions on the matter on which the possible conflict exists.

(c) Nothing in this section prohibits a Trustee from making decisions concerning reimbursement of expenses, salaries or salary-related benefits of Trustees."

**Secs. 2-86--2-100. Reserved.**

**DIVISION 2.**

**PERSONNEL**

**Secs. 2-101--2-120. Reserved.**

### **DIVISION 3.**

#### **CLERK-TREASURER**

##### **Sec. 2-121. Clerk's powers and duties.**

The clerk shall have such powers and perform such duties as prescribed by law and directed by the village board.

(Code 1993, § 1.11)

**State Law References:** Clerk generally, Wis. Stats. § 61.25.

##### **Sec. 2-122. Treasurer's powers and duties.**

The treasurer shall have such powers and perform such duties as prescribed by law and directed by the village board.

(Code 1993, § 1.12)

**State Law References:** Treasurer generally, Wis. Stats. § 61.26.

##### **Sec. 2-123. Clerk-treasurer's bond; liability for default.**

(a) *Bond eliminated.* The village elects not to give the bond on the clerk-treasurer provided for by Wis. Stats. § 70.67(1).

(b) *Liability for default.* Pursuant to Wis. Stats. § 70.67(2), the village shall pay all state and county taxes required by law to be paid by the clerk-treasurer to the county treasurer, if the clerk-treasurer fails to do so.

(Code 1993, § 3.08)

##### **Sec. 2-124. Temporary investment of funds not immediately needed.**

The clerk-treasurer may invest any village funds not immediately needed, pursuant to Wis. Stats. § 66.0603(1m).

(Code 1993, § 3.09)

##### **Secs. 2-125--2-150. Reserved.**

## **DIVISION 4.**

### **ASSESSOR\***

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\* **State Law References:** Assessors generally, Wis. Stats. § 60.307.

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#### **Sec. 2-151. Appointment.**

(a) *Selection.* The electors of the village, by referendum vote, have established that assessors for the village shall be selected by appointment. The village board, under the options provided by law, elects not to establish a civil service system for the selection of assessors and does elect to select such assessors by appointment of the village board on the basis of merit, experience and general qualifications.

(b) *Application.* Any person desiring to be considered for appointment as a village assessor shall submit a written application addressed to the village board and filed with the clerk-treasurer, which application shall set forth the following information, in detail:

- (1) Applicant's name, address and date of birth.
- (2) Applicant's current employment and position held.
- (3) Employment and positions held by the applicant for the previous ten years, with the reason for any termination of employment.
- (4) Applicant's experience in the field of real and personal property appraisals and establishment of real and personal property valuations.
- (5) Education and scholastic degrees obtained by the applicant, if any.
- (6) Extent and knowledge of state tax laws by the applicant.
- (7) Applicant's criminal record.
- (8) Whether the applicant is applying for village assessor or assistant village assessor.
- (9) Salary at which appointment would be accepted by the applicant.

(c) *Investigation.* The village board may cause such investigation as it may deem necessary to verify the information submitted as provided in subsection (a) of this section or to further inform itself on the merits, experience and general qualifications of such applicants. From among the applications submitted, the village board shall appoint a person as the village assessor and as many assistant village assessors as it may deem necessary on the basis of merit, experience and general qualifications for such offices, and fix the salaries and the terms of office, which may

be of an indeterminate length. No person who holds the office of clerk-treasurer shall be appointed as the village assessor or assistant village assessor.

(d) *Certification.* On or before March 15 each year, the village board shall certify to the clerk-treasurer the names of such assessor and assistants and the salaries to be paid to such persons, and the clerk-treasurer shall periodically issue a check on the village treasury for the payment of such salaries on a monthly basis.

(Code 1993, § 1.14)

**Secs. 2-152--2-180. Reserved.**

## **ARTICLE IV.**

### **BOARDS, COMMISSIONS AND COMMITTEES\***

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\* **Cross References:** Emergency government committee, § 26-3; health and sanitation, ch. 38; board of zoning appeals, § 90-131 et seq.

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#### **DIVISION 1.**

#### **GENERALLY**

**Secs. 2-181--2-200. Reserved.**

#### **DIVISION 2.**

#### **PLAN COMMISSION**

**Sec. 2-201. In general.**

(a) The plan commission shall consist of seven residents of the village which may include two trustees appointed by the village president in April for three-year staggered terms, subject to confirmation by the village board.

(b) Any member of the plan commission may be reappointed without limitation as to the number of terms.

(c) The per diem for members of the plan commission shall be fixed by the village board from time to time.

(Code 1993, § 1.20)

**Secs. 2-202--2-220. Reserved.**

### **DIVISION 3.**

#### **ZONING BOARD OF APPEALS\***

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\* **Cross References:** Zoning, ch. 90.

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##### **Sec. 2-221. Composition.**

The zoning board of appeals shall consist of five residents of the village appointed by the village president, subject to confirmation of the village board, for terms of three years. The president shall designate one of the members as the chair. The zoning board of appeals may employ a secretary and other employees. The president may appoint, for staggered terms of three years, two alternate members of the zoning board of appeals, who shall act with full power only when a member of the zoning board of appeals refuses to vote because of interest or when a member is absent.

(Code 1993, § 1.23)

**Secs. 2-222--2-240. Reserved.**

### **DIVISION 4.**

#### **BOARD OF REVIEW**

##### **Sec. 2-241. Created; terms of office; compensation; officers; reports; meetings; income and expense information; appeals.**

(a) *Created.* In accordance with Wis. Stats. § 70.46, there is created a board of review for the village consisting of five members and two alternates. Such members shall be appointed by the village board and vacancies will be appointed in the same manner.

(b) *Terms of office.* The first members of the board of review shall be appointed for terms expiring on the last day of April. All subsequent appointments shall be for terms of five years. The term of office shall begin upon appointment, confirmation and qualification, and shall continue until the qualification of a successor.

(c) *Compensation.* Members of the board of review shall receive compensation for their services of \$35.00 per meeting per member or alternate and \$45.00 per meeting for the chairperson.

(d) *Officers.* Every year, within 45 days after the time designated in subsection (b) of this section for the beginning of terms, members of the board of review shall organize, by the election from among their members, a president and such other officers as they may deem

necessary. The village clerk shall be the clerk of the board of review, and shall keep an accurate record of all its proceedings.

(e) *Reports.* The board of review shall annually, as soon as practicable after its hearings have been completed, file a report with the village board setting forth the names of all persons who appeared before the board of review objecting to the amount of valuation, the street address of the property whose valuation was reviewed, the request made by the persons asking for a review of valuation and the decision of the board of review, together with their findings and conclusions in regard thereto.

(f) *Meetings.* The board of review shall meet annually anytime during the 30-day period beginning on the second Monday of May in the village hall. If the assessment roll is not complete at that time, the board of review shall adjourn for such time as shall be necessary to complete the roll and shall post a written notice on the outer door of the place of meeting stating to what time such meeting is adjourned. The board of review shall be in session not fewer than two hours between 8:00 a.m. and 12:00 noon on the first meeting day on which the completed assessment roll is available to the board of review.

(g) *Income and expense information.* Whenever the assessor, in the performance of his duties, requests or obtains income and expense information pursuant to Wis. Stats. § 70.47(7)(af), or any successor statute thereto, then such income and expense information that is provided to the assessor shall be held by the assessor on a confidential basis, except, however, that such information may be revealed to and used by persons in the discharge of duties imposed by law; in the discharge of duties imposed by office, including, but not limited to, use by the assessor in the performance of official duties of his office and use by the board of review in the performance of its official duties; or pursuant to an order of a court. Income and expense information provided to the assessor under Wis. Stats. § 70.47(7)(af), unless a court determines that it is inaccurate, is, per Wis. Stats. § 70.47(7)(af), not subject to the right of inspection and copying under Wis. Stats. § 19.35(1).

(h) *Appeals.* Appeals from the decisions of the board of review shall be in accordance with the statutes in such case made and provided.  
(Code 1993, § 1.24; Ord. No. 5-2005, 4-25-2005; Ord. No. 1-2007, 1-8-2007)

**Secs. 2-242--2-250. Reserved.**

## **DIVISION 5.**

### **CIVIC AFFAIRS COMMITTEE**

#### **Sec. 2-251. Civic Affairs Committee.**

(a) *Created, purpose.* The civic affairs committee is hereby created to promote the best of Mount Pleasant and to encourage citizen participation in the community in which they live while also raising the quality of life within Mount Pleasant's boundaries and beyond.

(b) *Composition.* The civic affairs committee shall consist of seven voting members, comprised of three village trustees and four village residents, all of whom shall be appointed by the village president and confirmed by the village board. The village president shall endeavor to appoint members with varied backgrounds, such as communications, business, marketing, recreation, and entertainment. Committee members shall be appointed to serve a two-year term. Non-trustee members shall be village residents and U.S. citizens of demonstrated sound moral character, with no felony convictions. The village administrator and director of community development shall be non-voting, ex-officio members of the committee, and the village Police Department and the South Shore Fire Department shall also be asked to have representation at committee meetings. The village president shall appoint one member to serve as the committee chair, who shall preside at committee meetings, and the chair shall in turn appoint a vice-chair and secretary.

(c) *Meetings.* Committee meetings shall be held at least monthly. A majority of the voting membership shall constitute a quorum. The vice-chair shall preside at committee meetings in the chair's absence. The committee secretary shall ensure that meeting agendas are duly prepared and posted and shall also keep, or arrange for the keeping, of meeting minutes. The committee chair shall report out to the village board for final action and approval all committee recommendations.

(d) *Duties.* In furtherance of its purpose, the committee may solicit and receive donations, monies, in-kind donations, advertising, news media and internet promotion. Without exception, all monetary and in-kind donations shall be paid to the village treasurer who shall ensure that such donations are accounted for in a segregated account. The committee may not incur any expense or debt for the village without prior, direct village board approval. Any funds expended by the committee in furtherance of its purposes must be spent in accordance with the approved budget and the Village of Mount Pleasant Purchasing Policy. The committee will inform and coordinate all committee-organized events with the village's chief of police, fire chief, director of public works and village administrator, or their respective designees. The committee chair shall report out the committee's condition and activities annually at the village board's organizational meeting.

**Sec. 2-252 – 2-270. Reserved.**

## **ARTICLE V.**

### **FINANCE\***

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\* **Cross References:** Any ordinance promising or guaranteeing the payment of money for the village or authorizing the issuance of any bonds or notes of the village, any evidence of the village's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village saved from repeal, § 1-8(2).

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**Sec. 2-271. Budget.**

(a) *Departmental estimates.* Annually, at a time specified by the village board, the village administration shall file the following with the village board:

- (1) An itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year;
- (2) A detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year and of the conditions and management of such fund; and
- (3) Detailed estimates of the same matters for the current and ensuing fiscal years.

(b) *Preparation of proposed budget.*

- (1) *Preparer.* The village administration shall annually prepare a proposed budget presenting a financial plan for conducting the affairs of the village for the ensuing fiscal year.
- (2) *Required information.* The budget shall include the following information:
  - a. The expense of conducting each department and activity of the village for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for any increase and decrease recommended as compared with appropriations for the current year.
  - b. An itemization of all anticipated income of the village from sources other than general property taxes and bonds issued, with a statement comparing the amounts received by the village from each of the same or similar sources for the last preceding and current fiscal years.
  - c. An itemization of the amount of money to be raised from general property taxes, which, with income from other sources, will be necessary to meet the proposed expenditures.
  - d. Such other information as may be required by the village board and law.
- (3) *Copies required.* The village shall provide a reasonable number of copies of the prepared budget for distribution to citizens.

(c) *Hearing.* The village board shall hold a public hearing on the budget, as required by law.

(d) *Action by village board.* Following the public hearing, the proposed budget may be changed or amended and shall take the same course in the village board as ordinances.  
(Code 1993, § 3.03)

**Sec. 2-272. Budget changes.**

The amount of the tax to be levied or certified and the amounts of the various appropriations, and the purposes thereof, shall not be changed after approval of the budget, except by a two-thirds vote of all the members of the village board. Notice of such change shall be given by posting.  
(Code 1993, § 3.04)

**Sec. 2-273. Funds to be spent in accordance with appropriations.**

No money shall be drawn from the treasury of the village, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by section 2-272. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation, but appropriations may be made by the village board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made has been accomplished or abandoned.  
(Code 1993, § 3.05)

**Sec. 2-274. Repealed.**

**Secs. 2-275--2-300. Reserved.**

**ARTICLE VI.**

**TAX**

**DIVISION 1.**

**GENERALLY**

**Sec. 2-301. Preparation of tax roll and tax receipts.**

(a) *Computation of tax roll.* Pursuant to Wis. Stats. § 70.65(2), in computing the tax roll, the clerk-treasurer shall insert only the aggregate amount of state, county, local, school and other general property taxes, minus credits applied under Wis. Stats. § 79.10(9), except credits determined under Wis. Stats. § 79.10(7m), in a single column in the roll opposite the parcel or

tract of land against which the tax is levied, or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied. Each tax bill or receipt shall show the purpose for which the taxes are to be used, giving the breakdown for state, county, local, school and other general property taxes. The tax roll shall indicate all corrections made under Wis. Stats. §§ 70.43 and 70.44.

(b) *Tax receipts.* The clerk-treasurer shall enter in each tax receipt given by the county clerk for the payment of taxes the name of the person paying the taxes, if that person is not the owner of the property taxed; the date of payment; and the aggregate amount of taxes paid. Tax receipts shall be signed, and a duplicate kept, by the village clerk-treasurer, after noting the payment of taxes upon the tax roll. The clerk-treasurer shall then deliver the receipt to the appropriate person.  
(Code 1993, § 3.01)

**Secs. 2-302--2-320. Reserved.**

## **DIVISION 2.**

### **ROOM TAX**

#### **Sec. 2-321. Purpose.**

Wis. Stats. § 66.0615 authorizes the imposition of a tax on the privilege of furnishing, at retail, the lodging for transients by hotel keepers, motel operators and certain other persons. The village board finds that such tax is in the best interest of the public under the condition that the proceeds be used for the promotion of tourism, hospitality, and convention and recreation facilities in the Greater Racine Area. However, the room tax shall not be imposed on sales to the federal government and persons listed under Wis. Stats. § 77.54(9a), including, but not limited to, the state, counties, cities, villages, towns, school districts and any nonprofit corporation, community chest fund or association organized and operated exclusively for religious, charitable, scientific or educational purposes.  
(Code 1993, § 3.11(1))

#### **Sec. 2-322. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Clerk-treasurer* means the clerk-treasurer of the village or his designated representative.

*Gross receipts* means the total amount of the rental price, with the conditions and exceptions provided in Wis. Stats. § 77.51(4)(a), (b) and (c).

*Innkeeper* means the owner of a lodging facility.

*Lodging facility* means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, lodginghouses, roominghouses, apartment hotels, hotels, resort lodges and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospital, sanitarium, nursing home or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations or associations inures to the benefit of any private shareholder or individual.

*Transient* means any person residing continuously for a period of less than one month in a lodging facility.

(Code 1993, § 3.11(2))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 2-323. Imposed.**

There is hereby imposed a tax on the privilege and service of furnishing, at retail, rooms or lodging to transients by innkeepers, whether or not membership is required for the use of such accommodations. The tax shall be at the rate of eight percent of the gross receipts from such retail furnishing of rooms or lodging and shall be payable by innkeepers of lodging facilities in the Village. From the proceeds of such tax, \$500.00 per year plus one percent will be allocated to the innkeeper filing the return and 75 percent will be allocated to the Racine County Convention and Visitors Bureau.

(Ord. No. 08-01, § 3.11(3), 11-26-2001; Ord. No. 18-2005, 11-14-2005)

#### **Sec. 2-324. Due date; collection.**

The tax imposed in this division is due and payable on a monthly basis, not later than the 20th day of the month following that for which the tax is due. No later than the 20th day of each month, every innkeeper shall file a return with the clerk-treasurer on a form provided by the clerk-treasurer, and shall remit to the clerk-treasurer the tax as provided in the return.

(Code 1993, § 3.11(4))

#### **Sec. 2-325. Permit.**

(a) No innkeeper shall operate a lodging facility without first obtaining a room tax permit for each lodging facility. Application for such permit shall be made to the clerk-treasurer on forms provided by the clerk-treasurer. The clerk-treasurer shall issue a permit to the innkeeper for each lodging facility for which application is made upon payment of a fee set by the village board for each lodging facility. The permit is nontransferable and is valid only for the named lodging facility and the innkeeper named in the permit. The permit shall be posted in a conspicuous place in the lodging facility for which it is issued.

(b) If the innkeeper ceases to do business at the lodging facility for which the permit was issued, or conveys or transfers the business or his interest in it, or assigns his interest to another person, the innkeeper shall, within ten days of such event, notify the clerk-treasurer of such change and turn into the clerk-treasurer any such permit issued for the lodging facility.  
(Code 1993, § 3.11(5))

#### **Sec. 2-326. Liability.**

If an innkeeper who is liable for any tax under this division sells, conveys, assigns or transfers his lodging facility business or stock of goods or quits such business, the innkeeper's successors or assigns shall be responsible for the payment of any unpaid tax due under this division.  
(Code 1993, § 3.11(6))

#### **Sec. 2-327. Records.**

Every innkeeper holding a permit under this division shall, for a period of three full calendar years, maintain, available for inspection by the clerk-treasurer, the account books, records, receipts, invoices and similar records relating to the rental of rooms and lodging in the lodging facility. The clerk-treasurer may, upon audit of returns, records and other information received, determine the tax to be paid or refunded. An appeal from any additional tax imposed may be made by the innkeeper upon written notice to the clerk-treasurer within 20 days following the date that notice of the assessment is mailed to such innkeeper. The village board shall hold a hearing on such appeal within 30 days after the clerk-treasurer received the notice of appeal and shall grant or deny the appeal.  
(Code 1993, § 3.11(7))

#### **Sec. 2-328. Assessments.**

If an innkeeper fails to file a return as required by this division, the clerk-treasurer shall make an estimate of the amount of the gross receipts for such lodging facility. The estimate shall be made for the period for which the innkeeper failed to make a return and shall be based upon state sales tax records and records described in section 2-327. On the basis of such estimate, the clerk-treasurer shall compute and determine the amount of the tax. In addition to the tax, a penalty in the amount of \$25.00 shall be assessed.  
(Code 1993, § 3.11(8))

#### **Sec. 2-329. Delinquent returns and taxes.**

All unpaid taxes assessed or imposed under this division shall bear interest at the current legal rate per annum from the due date of the return until paid. Delinquent tax returns shall be subject to a late filing fee set by the village board.  
(Code 1993, § 3.11(9))

**Sec. 2-330. Violations; penalties.**

Any innkeeper who violates any provision of this division shall be subject to a penalty as provided in section 1-15.  
(Code 1993, § 3.11)

**Secs. 2-331--2-360. Reserved.**

**ARTICLE VII.**

**CLAIMS**

**Sec. 2-361. System of approval.**

Pursuant to Wis. Stats. § 66.0609, the village elects the alternative system of approving certain claims against the village.  
(Code 1993, § 3.06(1))

**Sec. 2-362. Payments.**

(a) Payments may be made from the treasury after the clerk-treasurer audits and approves each claim as a proper charge and endorses his approval on the claim after having determined that the following conditions have been complied with:

- (1) Funds are available for such payment pursuant to the budget approved by the village board.
- (2) The service covered by such claim has been authorized by the proper official, department head, board or commission.
- (3) The service has been actually rendered in conformity with such authorization.
- (4) The claim is just and valid pursuant to law.

The clerk-treasurer may require the submission of such proof and evidence to support the conditions as he, in his discretion, may deem necessary.

(b) The authority extended in subsection (a) of this section to the clerk-treasurer shall apply to regular payroll checks of village employees, the salaries of elected village officials and all other financial claims against the village which are in the nature of bills and vouchers. However, no action may be brought or maintained against the village upon a claim, unless the claimant complies with Wis. Stats. § 893.80.

(c) No less than monthly, the clerk-treasurer shall file with the village board a list of the claims approved, showing the date paid, name of claimant, purpose and amount.  
(Code 1993, § 3.06(2)--(4))

**Sec. 2-363. Annual audit.**

The village board shall authorize an annual detailed audit of its financial transactions and accounts by a public accountant licensed under Wis. Stats. ch. 442, and designated by the village board.  
(Code 1993, § 3.06(5))

**Sec. 2-364. Fidelity bond.**

The clerk-treasurer shall be covered by a fidelity bond in an amount of not less than \$5,000.00.  
(Code 1993, § 3.06(6))

**Secs. 2-365--2-400. Reserved.**

**ARTICLE VIII.**

**PUBLIC RECORDS**

**Sec. 2-401. Destruction of obsolete public records.**

(a) *Financial records.* The clerk-treasurer may destroy the following nonutility records of which he is the legal custodian, and which are considered obsolete, after completion of an audit by state auditors or an auditor licensed under Wis. Stats. ch. 442, but not less than seven years after payment or receipt of any sum involved in the particular transaction, unless a shorter period of time has been fixed or will in the future be fixed by the state public records board pursuant to Wis. Stats. § 16.61(3)(e), and then after such shorter period:

- (1) Bank statements, deposit books, slips and stubs.
- (2) Bonds and coupons, after maturity.
- (3) Cancelled checks, duplicates and check stubs.
- (4) License and permit applications, stubs and duplicates.
- (5) Official bonds.

- (6) Payrolls and other time and employment records of personnel included under the state retirement plan.
- (7) Receipt forms.
- (8) Special assessment records.
- (9) Vouchers, requisitions, purchase orders and all supporting documents pertaining thereto.
- (10) Vouchers and supporting documents pertaining to charges not included in plant accounts of municipal utilities and the sewer department.
- (11) Other municipal utility and sewer department records, with the written approval of the state public service commission.

(b) *Utility records.* Village officers may destroy the following utility records, subject to the regulations by the state public service commission and the village sewer department, of which they are the legal custodians and which are considered obsolete, after completion of an audit by state auditors or an auditor licensed under Wis. Stats. ch. 442, but not less than two years after payment or receipt of the sum involved in the applicable transaction:

- (1) Water and sewer stubs and receipts of current billings.
- (2) Customers' ledgers.
- (3) Vouchers and supporting documents pertaining to charges not included in plant accounts.

(c) *Other records.* Village officers may destroy the following records which are considered obsolete, but not less than seven years after the record was effective:

- (1) Assessment rolls and related records, including board of appeals minutes.
- (2) Contracts and papers relating thereto.
- (3) Correspondence and communications.
- (4) Financial reports, other than annual financial reports.
- (5) Insurance policies.
- (6) Oaths of office.
- (7) Reports of boards, commissions, committees and officials duplicated in the village board minutes.

- (8) Resolutions and petitions.
- (9) Voter cards.
- (10) Traffic forfeiture and ordinance violation case files.

(d) *Notice required.* At least 60 days' notice shall be given to the state historical society prior to the destruction of any public record described in subsections (a)--(c) of this section.

(e) *Interpretation.* This section shall not be construed to authorize the destruction of any public record after a lesser period than that prescribed by statute or state administrative regulation.  
(Code 1993, § 3.07)

**Secs. 2-402--2-499. Reserved.**

## **ARTICLE IX.**

### **PUBLIC CONTRACTS**

#### **Sec. 2-501. Public contractor qualification.**

(a) *Purpose and Applicability.* The purpose of this section is to ensure that contractors and subcontractors who perform work on public improvement projects within the Village are responsible, competent to perform such work skillfully, capable of completing such work in a timely manner and sensitive to the necessity of performing such work in a manner that protects the health, safety and welfare of the public and minimizes any disturbance, inconvenience or annoyance to the public. This Ordinance shall apply to all public improvement contracts entered into by the Village of Mount Pleasant that are estimated to have a construction contract value of \$25,000 or more.

(b) *Definitions.*

- (1) Administrator. The Village Administrator and/or such other Village staff members or officials as may be designated as the administrators of this section by resolutions adopted from time to time by the Village Board; the Village Board, at its discretion, may perform, in the first instance, any function delegated to the Administrator by this section.
- (2) Public Improvement Project. Any project within the Village, or undertaken by or behalf of the Village, involving the construction, reconstruction, improvement, installation, remodeling or repair of, or any grading,

excavation, drilling, filling, landscaping or other work in connection with any public improvement, including without limitation all public buildings, public street improvements (pavement, curbs and gutters, sidewalks, culverts, street trees, streetlights and street signs), public bridges, public sanitary sewerage system improvements and facilities, public water supply and distribution system improvements and facilities, public storm sewer and drainage system improvements and facilities, and public parks and recreational facilities, or any improvements or facilities that are intended to become public through dedication to the Village in connection with an approved land division or otherwise.

- (3) Person. Any individual, corporation, partnership, association, trust, body politic or corporate, or any other legal entity.
- (4) Subcontractor. Any person whose relationship to the principal contractor is substantially the same, with respect to a part of the work on a public improvement project, as the latter's relationship is to the proprietor; a subcontractor takes a distinct part of the work on a project in such a way that the subcontractor does not contemplate doing merely personal service.

(c) *Qualification Requirement.* No person shall be permitted to obtain bid proposal forms or related plans or specifications from the Village for the purpose of submitting a bid for work on any public improvement project, or to submit a bid for work on any public improvement project without first qualifying for such activities pursuant to the provisions of this section. Except as permitted by subsection (d), it shall be unlawful to, and no person shall, act as a contractor or subcontractor on any public improvement project within the Village unless such person is duly qualified pursuant to this section.

(d) *Exemption.* Any contractor or subcontractor who has submitted a bid to the Village for work on a public improvement project or who has entered into a construction contract for work on a public improvement project prior to the effective date of this section shall be exempted from this section only to the extent of the work on such project. No lapse, suspension or cancellation of the qualification of a contractor or subcontractor under this section shall affect the ability of such contractor or subcontractor to carry out a contract with respect to a public improvement project, without penalty, provided that such contract was entered into in good faith at a time such contractor or subcontractor was duly qualified.

(e) *Qualification Application.* Any person who wishes to obtain bid proposal forms or related plans or specifications from the Village for the purpose of submitting a bid for work on any public improvement project or to act as a contractor or subcontractor on any public improvement project, may become qualified to do so by filing with the Administrator an application for qualification. Each such application shall specify the categories of public improvement projects for which qualification is sought and shall be accompanied by a sworn statement of qualifications. The applicant shall pay to the Village Clerk/Treasurer, at the time of application, an application fee of \$75, or such other amount as may be set periodically by

resolution of the Village Board, to help defray the costs of reviewing and evaluating the application. All applications for qualification and all sworn statements of qualification shall be submitted on standard forms approved by the Village Board and available from the Administrator. The Administrator may require from time to time that additional or supplementary information be submitted by any applicant or any qualified contractor or subcontractor with respect to particular categories of public improvement projects, or with respect to a particular public improvement project, or as a follow-up to issues raised by a failure to submit the required information, or by the information initially submitted, or by problems or complaints generated by work on current or recent public improvement projects, or by adverse information received from any source.

(f) *Qualification Categories.* The following are the general categories of public improvement projects on which contractors and subcontractors may be qualified to perform work pursuant to this section. If applicant cannot qualify for a general category, please indicate qualification in related work in individual categories under the general category:

- (1) General Street Construction: The applicant must be capable of the construction and performance of a complete unit of street improvement work, including without limitation grading, sub-base work, base course, masonry, asphaltic or concrete pavement, miscellaneous concrete structures (including lighting and signal bases), pavement marking, roadway signage, street lighting, traffic signals, and related work, or any combination thereof.
- (2) General Utility Construction: The applicant must be capable of the trenching, excavating, boring, casing installation, bedding and placing pipe, backfilling, compacting, connecting service lines, testing, and restoring pavement surface or restoration of non-paved areas.
- (3) General Landscaping: The applicant must be capable of the excavation to prepare for planting, supplying plant material, planting ornamental or native plants, shrubs, and trees, capable of providing maintenance of planted materials including staking, watering, weeding, mowing, etc.
- (4) Invasive Species Control: The applicant possesses the understanding of plant identification, particularly the identified invasive species of the region and has the training, knowledge, and certification when required to apply herbicide treatments or other methods of control in environmentally sensitive areas.
- (5) General Bridge Structures: The applicant must be capable of the construction and/or erection of bridge structures including precast, cast-in-place, steel, timber, railroad structures, and must be able to provide a completed ready to use facility including, railings, ornamental attachments, and painting of the structure.

- (6) Railroad Construction: The applicant must be capable of excavating and grading for the track bed, installation of drainage structures, ballasting, laying or replacement of railroad ties, rails, turnouts, etc.
- (7) General Building Construction: The applicant must be capable of the complete construction of building structures including; erection of frame superstructure, general masonry walls and pre-cast panels, roofing, HVAC systems installation or repair, electrical and communications wiring, interior carpentry, glass and glazing, plumbing, fire protection, site work (including grading, sidewalk and parking lot), painting both exterior and interior portions of the building.

(g) *Qualification Determination*. The Administrator shall determine whether and with respect to which categories of public improvement projects an applicant is qualified. Such determination shall be made in writing as soon as practical after an application and all required information is filed. In the event that an applicant fails or refuses to file required supporting or supplementary information within a reasonable period of time, the Administrator may deny qualification, entirely or with respect to certain categories of public improvement projects, or subject any qualification granted to reasonable conditions. The Administrator may attach to any determination to qualify a contractor or subcontractor under this section such conditions precedent or subsequent as may be reasonable in light of the purposes of this section and the information available to the Administrator.

(h) *Notice of Determination*. The Administrator shall promptly notify the applicant in writing of any determination made with respect to qualification. Any determination to deny any qualification sought by an applicant because of the lack of required information shall specify the missing information. Any determination to deny any qualification sought by an applicant, for any reason other than missing information shall specify with particularity the reasons for such determination. Any determination to qualify an applicant shall specify for which categories of public improvement projects the applicant is qualified and any conditions to which the qualification is subject. In the absence of a subsequent determination to modify, suspend or cancel the qualification of a contractor or subcontractor, all determination to qualify an applicant shall be effective for the remainder of the then-current calendar year, plus two additional calendar years.

(i) *Reconsideration*. An applicant may file an application to reconsider a prior qualification determination at any time. The fee for filing an application to reconsider prior determination shall be one-half the fee for an initial application, and such application shall be processed in the same manner as an initial or renewal application. The applicant shall file with the application an updated sworn statement of qualifications. Any such statement shall correct all outdated or incorrect information in the prior statement and shall include any new information upon which the application is based.

(j) *Suspension, Modification or Cancellation of Qualification.* If a contractor or subcontractor qualified under this section fails or refuses promptly to supply any information requested by the Administrator, or fails to satisfactorily perform work on any public improvement project, or if the Administrator receives material new information regarding the responsibility, competence or capability of the contractor or subcontractor, or its sensitivity to the necessity of performing work on public improvement projects in such a way as to protect the health, safety and welfare of the public and to minimize any disturbance, inconvenience or annoyance to the public, which demonstrates that a prior qualification determination is no longer justified, the Administrator may suspend, modify, cancel or subject to new conditions the qualification of such contractor or subcontractor, as may be reasonable in light of the purposes of this section and the information available to the Administrator. If the Administrator determines that materially-false information was submitted on a statement of qualifications filed with the Village, the Administrator shall cancel the qualification of such contractor or subcontractor, and such contractor or subcontractor shall be ineligible for qualification for one (1) year from the date of cancellation. Written notice of any action taken under this subsection shall be provided to the contractor or subcontractor.

(k) *Appeal.* Any person aggrieved by any determination made by the Administrator pursuant to this section may appeal such determination to the Village Board by filing with the Village Administrator or the Village Administrator designee a notice of appeal specifying with particularity the determination appealed from and all specific grounds for believing that the Administrator's determination is erroneous. Any such notice of appeal shall be filed within thirty (30) days after the date of the Administrator's written determination. The appellant shall pay to the Clerk/Treasurer, at the time of filing the notice of appeal, an appeal fee of \$25, or such other amount as may be set periodically by resolution of the Village Board, to help defray the costs of appeal. A properly filed appeal shall be given a public hearing before the Village Board. The appellant shall be given not less than ten days' advance written notice of the date, time and place of the hearing. The appellant may be represented by counsel at the hearing, may present evidence and argument relevant to the issues raised by the notice of appeal, and may question witnesses called to support the Administrator's determination. The Administrator may also present evidence and argument in favor of the determination, and question witnesses called to support the appellant's position. The appellant shall have the burden of proving that it is qualified and that any conditions imposed on its qualification are not reasonable. The Village Board may reverse, affirm or modify the determination of the Administrator, and the Board's decision shall be final. The Village Board shall promptly notify the appellant of its findings in writing.

(l) *Confidentiality.* Pursuant to Wis. Stat. § 66.0901(2), the contents of any statement of qualifications or any related information, including any additional, updated or supplemental information, filed by a person pursuant to this section shall be confidential and shall not be disclosed except upon the written order of such person, or for necessary use by the Administrator or the Village Board in qualifying such person, or in cases of legal or administrative action against or by such person, or against or by the Administrator or the Village.

**Sec. 2-502. Final Acceptance of Construction of Public Facilities.**

(a) The Director of Engineering, or other designated person, will make an inspection of the work included in the construction of all public facilities as soon as practical after the contractor provides notification and confirmation is provided by the construction inspector that such work has, in their opinion, been completed and final clean-up performed.

(b) Should the inspection disclose any work, in whole or in part, as being unsatisfactory in its conformance with the approved plans, supply of materials, or quality of construction, the Director of Engineering shall give the contractor the necessary instructions for correction of the same, and the contractor shall immediately comply with and execute such instructions. Upon correction of the work, another inspection will be made, which will constitute the final inspection provided the work has been satisfactorily completed.

(c) When all work has been completed, in the opinion of the Director of Engineering, the Village will make the final acceptance and will certify the date of completion of such work and the warranty period as it may apply.

**Chapters 3 - 5**

**RESERVED**

## Chapter 6

### ALCOHOL AND ALCOHOL BEVERAGES\*

\* **Cross References:** Licenses and permits, ch. 46; alcohol beverages, § 54-8.

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 6-1.	State statute adopted.		
Sec. 6-2.	Licenses, permits and other authorizations.		
Sec. 6-3.	Inspections.		
Sec. 6-4.	Issuance of license for sales in dwellings.		
Sec. 6-5.	License fees.		
Sec. 6-6.	Classes of licenses and fees.	03-2015 14-2017	06/08/15 09/25/17
Sec. 6-7.	Wine sampling on retail "class A" liquor license premises.		
Sec. 6-8.	License and annual fee required.	03-2015 14-2017	06/08/15 09/25/17
Sec. 6-9.	Operator's license.		
Sec. 6-10.	Manager's license required.		
Sec. 6-11.	License application.		
Sec. 6-12.	License granting and transferral procedure.		
Sec. 6-13.	License restrictions.	04-2012 03-2015	04/23/12 06/08/15
Sec. 6-14.	Contents and expiration of licenses.		
Sec. 6-15.	Transfer of licenses.		
Sec. 6-16.	Regulation of licensed premises and licensees.		
Sec. 6-17.	Closing hours.	03-2015	06/08/15
Sec. 6-18.	Underage persons.		
Sec. 6-19.	Revocation, suspension and nonrenewal of licenses.		
Sec. 6-20.	Violations by agents and employees.		
Sec. 6-21.	Sale of fermented malt beverages and intoxicating liquors at drive through dispensaries.		
Sec. 6-22.	Mandatory identification examination.		
Sec. 6-23 – 6-50.	Reserved.		
<b>Article II. Cabarets</b>			
Sec. 6-51.	Permit required; termination date.		
Sec. 6-52.	Permit issuance; fees.		
Sec. 6-53.	Regulations.		
Sec. 6-54.	Permit revocation.		
Sec. 6-55 – 6-90.	Reserved.		
<b>Article III. Nonintoxicating Beverages</b>			
Sec. 6-91.	Licenses.		

**ARTICLE I.**  
**IN GENERAL**

**Sec. 6-1. State statute adopted.**

The provisions of Wis. Stats. ch. 125, including all provisions relating to underage persons, are adopted and made part of this chapter by reference. A violation of any of such provisions shall constitute a violation of this section.  
(Code 1993, § 12.03(1))

**Sec. 6-2. Licenses, permits and other authorizations.**

(a) *Required.* Except as provided by Wis. Stats. § 125.06, no person within the village shall serve, sell, manufacture, rectify, brew or engage in any other activity for which this chapter or Wis. Stats. ch. 125 requires a license, permit or other authorization, without holding the appropriate license, permit or other authorization as provided in this chapter.

(b) *Licensees with multiple locations or premises.* Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, sold or offered for sale.  
(Code 1993, § 12.03(2))

**State Law References:** Similar provisions, Wis. Stats. §§ 125.04(1), 125.04(9).

**Sec. 6-3. Inspections.**

(a) *Consent.* An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the village upon the licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or law.

(b) *Reinspections.* License fees cover the costs of an initial inspection and one reinspection. Second and subsequent reinspections require a reinspection fee as set by the village board.  
(Code 1993, § 12.02(13))

**Sec. 6-4. Issuance of license for sales in dwellings.**

No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling, house, flat or residential apartment.  
(Code 1993, § 12.03(6)(k))

## **Sec. 6-5. License fees.**

(a) *Required with application.* License fees imposed under section 6-8 shall accompany the license application. If a license is granted, the clerk-treasurer shall issue the applicant a receipt for the license fee.

(b) *Refunds.* No fee paid shall be refunded unless the license is denied, with the exception of an alcohol beverage license. Denial of any other license shall result in a refund of the license fee, less a \$25.00 service charge or the actual license fee, whichever is less. When the holder of an alcohol beverage license shall surrender such license, the holder shall be entitled to a prorated refund of the unearned license fee, minus a service charge of \$25.00.  
(Code 1993, § 12.02(4))

## **Sec. 6-6. Classes of licenses and fees.**

There shall be the following classes and denominations of licenses which, when issued by the clerk-treasurer under the authority of the village board, shall allow the licensee to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in the referenced statute. Except as otherwise provided in this chapter, the full license fee on file in the clerk-treasurer's office shall be charged for the whole or fraction of any year.

(1) *Class "A" fermented malt beverage retailer's license.* See Wis. Stats. § 125.25.

(2) *Class "B" fermented malt beverage retailer's license.* See Wis. Stats. § 125.26.

a. *Part-time.* A license may be issued at any time for six months in any calendar year, for which 50 percent of the applicable license fee shall be paid, but such temporary license shall not be renewable during the calendar year in which license is issued. See Wis. Stats. § 125.26(5).

b. *Temporary class "B."* See Wis. Stats. § 125.26(6).

(3) *Retail "class A" liquor license.* See Wis. Stats. § 125.51(2).

(4) *Retail "class B" liquor license.* See Wis. Stats. § 125.51(3).

(5) *Retail "class C" liquor license.* See Wis. Stats. § 135.51(3)(m).

(Code 1993, § 12.03(3))

**Sec. 6-7. Wine sampling on retail "class A" liquor license premises.**

(a) The provision of wine taste samples, of not more than three fluid ounces each, free of charge, by a "class A" licensee to customers and visitors for consumption on the premises is permissible as follows:

- (1) No "class A" licensee may provide more than two taste samples per day to any one person. This subsection applies only between the hours of 10:00 a.m.--6:00 p.m. Notwithstanding Wis. Stats. § 125.07(1)(a)l, no "class A" licensee may provide taste samples under this subsection to any underage person.
- (2) No "class A" licensee may provide, as taste samples under this subsection (a), wine that the "class A" licensee did not purchase from a wholesaler.

(b) Notwithstanding any other provisions contained in this section, the authority provide wine taste samples is conditioned that:

- (1) The village board shall require an operator's/bartender's license to conduct the wine tasting.
- (2) The village board may limit the location of wine tasting to the liquor department only.
- (3) The police chief shall be notified prior to the wine tasting.
- (4) An application must be completed by the "class A" license holder.  
(Ord. No. 1302, 12-9-2002; Ord. of 12-10-2002)

**Sec. 6-8. License and annual fee required.**

Unless otherwise indicated, a license and annual fee shall be required as follows:

- (1) *Fermented malt beverages:*
  - a. *Retail class "A."* On file in the clerk-treasurer's office.
  - b. *Retail class "B."* On file in the clerk-treasurer's office.
  - c. *Temporary.* On file in the clerk-treasurer 's office.
  - d. *Operators.* On file in the clerk-treasurer's office.
  - e. *Managers.* On file in the clerk-treasurer's office.

f. *Provisional operators.* On file in the clerk-treasurer's office.

g. *Transfers.* On file in the clerk-treasurer's office.

(2) *Intoxicating liquor:*

a. *Retail "class A."* On file in the clerk-treasurer's office.

b. *Retail "class B."* On file in the clerk-treasurer's office.

c. *Retail "class C".* On file in the clerk-treasurer's office.

(3) *Nonintoxicating beverages:*

a. *Class E.* On file in the clerk-treasurer's office.

b. *Class F.* On file in the clerk-treasurer's office.

(Code 1993, § 12.01(1), (2), (12))

## **Sec. 6-9. Operator's license.**

(a) *Required.* No person, other than the licensee, the spouse of the licensee, an agent of a corporation appointed as required by Wis. Stats. § 125.04(6) or the manager licensed under section 6-10, may serve or sell alcohol beverages in any place operated under a class B license unless he has an operator's license. Application for an operator's license shall be made to the clerk-treasurer on such form as the clerk-treasurer may provide, and shall be accompanied by the fee as prescribed in section 6-8. Notwithstanding any other provision contained in this chapter, an operator's license may only be issued to an applicant who has attained the age of 18 years per Wis. Stats. § 125.04(5)(d).

(b) *Provisional license.*

(1) A provisional license may be issued by the clerk-treasurer only to a person who has applied for an operator's license. A provisional license may not be issued to any person who has been denied a license by the village board.

(2) A provisional license expires 30 days after its issuance or when a regular operator's license is issued to the holder of such license, whichever occurs first.

(c) *Temporary license.* A temporary license may be issued only to operators employed by, or donating their services to, nonprofit corporations. No person may hold more than one temporary license per year. The temporary license is valid for any period from one to 14 days, and the period for which such license is valid shall be stated on the license.

(Code 1993, § 12.03(15))

#### **Sec. 6-10. Manager's license required.**

No person may manage a premises operating under a class B license issued by the village under this article unless the person is the licensee, the spouse of the licensee, an agent of a corporation appointed as required by Wis. Stats. § 125.04(6) or the holder of a manager's license as defined in Wis. Stats. § 125.32(1). Application for a manager's license shall be made to the clerk-treasurer on such form as the clerk-treasurer may provide, and shall be accompanied by the fee prescribed in section 6-8. Any person holding a manager's license issued under this article shall also be considered to be the holder of an operator's license as required in section 6-9. (Code 1993, § 12.03(16))

#### **Sec. 6-11. License application.**

(a) *Form.* Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the state department of revenue, and filed with the clerk-treasurer. The premises shall be physically described, including every room and storage space to be covered by the license, and including all rooms joined by connecting entrances or not separated by a solid wall.

(b) *Notarization.* Applications shall be signed and sworn to by the applicant as provided by Wis. Stats. § 887.01.

(c) *List of licensees.* By July 15 of each year, the clerk-treasurer shall forward to the state department of revenue a list containing the name, address and trade name of each person holding a license issued under this chapter, except a picnic, manager's or operator's license. (Code 1993, § 12.03(4))

#### **Sec. 6-12. License granting and transferral procedure.**

(a) *Purpose.* The purpose of this section is to establish an equitable procedure for the granting of "class B" combination licenses which are limited in number pursuant to a quota system established and controlled by statute. As such, the procedures set forth in this section are to be implemented when granting an available license.

(b) *Notice.*

- (1) When the number of "class B" combination licenses granted by the village falls under quota or is reduced in any fashion, the clerk-treasurer shall notify the village board and license committee of such circumstances. The village board shall acknowledge the report of the clerk-treasurer on the number of "class B" combination licenses granted by motion in their official record. The report will be included in the normal manner as part of the village board's proceedings. The license committee will then allow at least 30 days to elapse before considering granting any "class B"

combination licenses to replace the licenses which have been revoked, nonrenewed or are otherwise available.

- (2) Procedures enumerated in subsection (b)(1) of this section shall not apply to routine renewals.

(c) *Applications.* Applications for available "class B" combination licenses shall contain the following information:

- (1) State alcohol beverage license application.
- (2) Financial responsibility statement provided by the applicant's financial institution, demonstrating that the applicant has access to sufficient resources to implement the proposed business venture.
- (3) Duplicate copies of a drawing or sketch, to scale, or other suitable description, to indicate the size of the building and its capacity, rooms and their purposes, type of construction, as well as site of the building on the property and available parking, with ingress and egress.
- (4) Proof of one of the following:
  - a. Ownership of a building or a piece of real property upon which a building can be constructed.
  - b. A lease on a building which is properly zoned to house the proposed venture.
  - c. An option to purchase property which is properly zoned for the venture.
  - d. An option to lease property which is properly zoned for the venture.

(d) *Failure to supply required information.* Failure of a party to supply any of the information required in subsection (c) of this section may result in refusal to grant, transfer or renew a license pursuant to this section.

(e) *Determination of license committee.*

- (1) The license committee will make a determination of the social and economic benefit of the proposed venture to the village. The license committee will also determine if the establishment is in harmony with, and complementary to, other proposed or adopted plans for community development.

- (2) At the discretion of the license committee, but no sooner than 30 days after the making of the report of the clerk-treasurer to the license committee, the names of all applicants will be considered and the successful applicants will be chosen and recommended to the village board for approval. The remaining applications will continue to be on file until the end of the license year applied for and may be reconsidered when other license opportunities become available.

(Code 1993, § 12.03(5))

#### **Sec. 6-13. License restrictions.**

(a) *Statutory requirements.* Class A and class B licenses shall be issued only to persons eligible for such licenses under Wis. Stats. § 125.04.

(b) *Location.*

- (1) *Distance Restrictions.* No retail class A or class B license shall be issued for any premises of which the main entrance is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises.
- (2) *Exclusion.* This subsection (b) shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.

(c) *Violators of liquor or beer laws or ordinances.* No retail class A or class B license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or the provisions of this section, or whose license has been revoked under Wis. Stats. § 125.12 during a period of one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for a period of one year.

(d) *Health and sanitation.* No retail class A or class B license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the state department of commerce pertaining to buildings and plumbing, the rules and regulations of the state department of health applicable to restaurants and all such ordinances and regulations adopted by the village.

(e) *License quota.*

- (1) The number of persons and places that may be granted a retail class B liquor license under this chapter is limited as provided in Wis. Stats. § 125.51(4).

(2) The number of persons that may be granted a class A retail liquor license under this chapter shall be and hereby is limited as follows:

a. There shall be only one class A retail liquor license for each 1,000 inhabitants, or fraction thereof, in the village as determined by the last preceding census of the Bureau of the Census of the United States government or the estimate made by the state.

(f) *Corporations.* No corporation organized under the laws of this state or any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of Wis. Stats. § 125.04(6).

(g) *Age requirement.* No license under this chapter, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operators' licenses may be issued only to applicants who have attained the age of 18 years.

(h) *Effect of revocation of license.* Whenever any license has been revoked, at least 12 months shall elapse before another license shall be granted to the person whose license was revoked.

(i) *Delinquent taxes, assessments and claims.* No license shall be granted or renewed for any premises for which taxes, assessments or other claims of the village are delinquent and unpaid or to any person delinquent in payment of such claims to the village, unless such person has made arrangements suitable to the village for payment of the delinquent taxes, assessments or other claims.

(j) *Class B licensed premises to be located on street level; exceptions.* A retail class B license shall be issued only for that portion of a premises located on the street level. This restriction shall not apply to a bona fide club, society or lodge in existence not less than six months prior to application, nor prohibit any hotel holding a state permit from supplying beverages in original containers to bona fide patrons in rooms rented by such patrons.

(k) *Use of area outside licensed area limited.* Provided the initial or renewal alcohol beverage license describes adjacent premises owned or leased by the licensee or is amended to so describe such premises, service and consumption of intoxicating liquor or fermented malt beverages shall be permitted in such adjacent area on the provided that:

- (1) A site plan for such use is first submitted and receives favorable recommendation from the village plan commission and approval by the village board, which site plan shall show that no dwelling, except if located in the same structure as the licensed premises, shall be within 150 feet of the outer boundary of such area.
- (2) The area is designated by a fence, decorative chain and posts or other suitable barricades at least three feet in height that cordons the area off from the remainder of the outside area. Such barriers may be placed to

allow the public access from the outside as well as through the licensed premises.

- (3) The area is cleared of all persons by not later than 10:00 p.m.
- (4) No loud music or dancing shall be allowed in the outside area.
- (5) The outdoor area shall be supervised at all times by the licensee or an authorized employee.
- (6) All other village ordinances, including those relating to littering, noise or drinking of intoxicants where prohibited, shall be observed.

(l) *Continuity of business.* No "class B" retail liquor license shall be held by any person who is not actively engaged in the business for which such license is issued. Failure to continuously be so engaged shall constitute an abandonment of such license and shall be cause for revocation of the license. In the case of corporations licensed under this chapter, this subsection shall apply to all officers and directors of such corporation. Failure to operate a licensed place of business for 60 days shall be cause for revocation of the license, except that where the licensed place of business is operated in connection with a seasonal business, the licensed place of business may be closed during the closed season of such seasonal business. If the premises designated to be licensed has not yet been constructed (any such applicant for a license being required to have a legal interest in such designated premises), the village board may, in its discretion, extend the period of inactivity for good cause shown.

(m) *Records.*

- (1) Any person may inspect applications for licenses to sell alcohol beverages.
- (2) The clerk-treasurer shall retain all applications made to the village for licenses to sell alcohol beverages.
- (3) The clerk-treasurer may destroy all applications more than four years of age which have been retained under subsection (m)(2) of this section.

(n) *Curtains and doors.* During the hours when a licensed premises is required to be closed, any curtains or other obstructions to view, facing on the street or highway, shall be removed to such an extent that a clear view may be had of the interior of such premises. In any such premises, no curtain, door or other obstruction shall close off the view into any booth, room or other enclosure in which any alcohol beverage may or can be served.

(o) *Premises required to be kept open to the public.* The premises for which a license shall have been issued under this chapter shall be kept open to the general public at all times when alcohol beverages are offered for sale therein.

(p) *Certain entertainment and other practices prohibited.*

(1) *Scope and findings.*

- a. The village board has explicit authority under Wis. Stats. § 125.10(1) to adopt regulations governing the sale of alcohol beverages which are in addition to the regulations set forth in Wis. Stats. ch. 125;
- b. The village board has authority under its general police powers set forth in Wis. Stats. § 61.34 to act for the good order of the village and for the health, safety and welfare of the public, and may carry out its powers by regulation and suppression;
- c. The village board recognizes it lacks authority to regulate obscenity in light of Wis. Stats. § 66.0107(3), and does not intend, by adopting the ordinance from which this chapter is derived, to regulate obscenity and, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, nonobscene, erotic dancing in bars and taverns;
- d. Bars and taverns featuring live, totally nude, nonobscene, erotic dancing have, in other communities, tended to further the increase of criminal and other offensive activity; disrupt the peace and order of the communities; depreciate the value of real property; harm the economic welfare of the communities and negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens;
- e. The village board recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and, therefore, entitled to some limited protection under the First Amendment, and the village board further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights;
- f. However, the village board is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, nonobscene, erotic dancing occurs may and do generate secondary effects which the village board believes are detrimental to the public health, safety and welfare of the citizens of the village;
- g. Among such secondary effects are the:

1. Potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;
  2. Potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;
  3. Health risks associated with the spread of sexually transmitted diseases; and
  4. Potential for infiltration by organized crime for the purpose of unlawful conduct.
- h. The village board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the village; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and
- i. The village board has determined that enactment of an ordinance prohibiting live, totally nude, nonobscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.
- (2) *Definitions.* The following words, terms and phrases, when used in this subsection (p), shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- Licensed establishment* means any establishment licensed by the village board to sell alcohol beverages pursuant to Wis. Stats. ch. 125.
- Licensee* means the holder of a retail class "B" license under Wis. Stats. § 125.26(1), a "class B" license under Wis. Stats. § 125.51(3) or "class C" license under Wis. Stats. § 125.51(3m), granted by the village board.
- (3) *Exemptions.* The provisions of this section do not apply to the licensed theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

- (4) *Unlawful acts.* It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:
- a. Shows such person's genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering;
  - b. Shows any portion of the female breast below a point immediately above the top of the areola; or
  - c. Shows the covered male genitals in a discernibly turgid state.
- (5) *Prohibited conduct.* No licensee, either personally or through his agent or employee, shall permit any person in the licensed premises to perform acts of, or acts which, simulate:
- a. Sexual intercourse, masturbation, sodomy, bestiality, or copulation, flagellation or any sexual acts which are prohibited by law.
  - b. The touching, caressing or fondling of the breast, buttocks, anus or genitals.
  - c. The displaying of the pubic hair, anus, vulva or genitals.
  - d. The showing of films or slides or scenes wherein artificial devices or inanimate objects or drawings are employed to portray or depict any of the acts which are prohibited by the regulations stated in subsections (p)(5)a.--c. of this section.
- (6) *Stage area.* No licensee, either personally or through his agent or employee, shall furnish entertainment or permit the performance of any act, stunt or dance unless such act, stunt or dance shall be performed on a stage area designated for such purpose. The use of the surface of the bar proper as a stage area is prohibited. When the stage area is located behind the bar, the nearest point of any such stage area shall not be less than six feet from the outer limits of the patrons' side of the bar. When the stage area is located outside of the bar (i.e., on the patrons' side of the bar), such area shall be raised from the floor level and separated by a railing or other device so as to provide a distance of at least six feet between the patrons and the performers so as to deter patrons from participating in any act, stunt or dance.

- (7) *Disorderly conduct by patrons.* No licensee, either personally or through his agent or employee, shall permit any patron to participate in any act, stunt or dance with performers or employees who are under the auspices of the management.
- (8) *Solicitation of drinks.* No licensee, either personally or through his agent or employee, shall permit the solicitation by any entertainer or employee of a drink of intoxicating liquor, fermented malt beverage or other drink from any customer or patron or other person on the premises, and no entertainer or employee shall solicit any such drink from any customer, patron or other person on such premises.
- (9) *Fraternization.* No licensee, either personally or through his agent or employee, shall permit any entertainer, waiter, waitress or other employee to sit at any table or in any booth or elsewhere on the licensed premises with any customer or patron; provided, however, that this subsection shall not apply to a member of the immediate family of the licensee or to any person claiming under him who lives in the same household as the licensee and is over 18 years of age.
- (10) *Violations; penalties.* In addition to all other penalties provided in this chapter, a violation of this subsection (p) constitutes sufficient grounds for suspending, revoking or nonrenewing an alcohol beverage license under Wis. Stats. § 125.12.

(q) *Presence of underage persons in class B premises.* Notwithstanding the restrictions and exceptions applicable to underage persons on licensed premises as set forth in Wis. Stats. § ch. 125, and as adopted by this chapter, an underage person may enter or remain in a room in a class B licensed premises separate from any room where alcohol beverages are sold or served if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present, provided that the licensee shall have accomplished each of the following:

- (1) The licensee shall have submitted to and obtained the approval of the license committee of the village board for the plan of operation and anticipated schedule of events for such activity, together with such other information as the license committee requests.
- (2) The licensee has obtained the approval of the police department in the form of a written authorization permitting underage persons to be present under the terms of this subsection (q) on the date specified in the authorization. The licensee shall obtain a separate authorization from the police department for each day on which underage persons will be present on the premises. In determining whether to issue such authorization, the police department shall make a determination that the presence of underage persons on the licensed premises would not endanger the health,

welfare or safety of such underage persons or that of the other members of the community. The following criteria shall be utilized by the police department in making such a determination:

- a. The licensee shall have presented to, and obtained the approval of, the police department with respect to a detailed security plan encompassing both the licensed premises and the parking areas servicing the licensed premises.
- b. Ensure that the protective services of the village are not unduly strained, and no more than two such authorizations shall be granted for any one day.
- c. The plan and information submitted by the licensee is consistent with that presented to the license committee when obtaining initial approval.

(r) *Gambling Machine.*

- (1) Definition. For the purpose of this section, gambling machine shall be as defined in Wis. Stat. § 945.01.
- (2) Regulation and Penalty. For the purpose of this section, regulation and penalties of gambling machines shall be as defined in Wis. Stat. § 945.02 to § 945.041.

(Code 1993, § 12.03(6); Ord. No. 3-2004, § 12.03(6)(l), 4-12-2004; Ord. No. 4 04, § 12.03(6)(s), 4-26-2004)

**Sec. 6-14. Contents and expiration of licenses.**

All licenses shall be numbered in the order in which they are issued and shall clearly state the specific premises for which the licenses are granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, such licenses shall expire on June 30 after the issuance thereof, except as otherwise provided.

(Code 1993, § 12.03(7))

**Sec. 6-15. Transfer of licenses.**

(a) *Persons.* No license shall be transferable to a different licensee, except as provided by Wis. Stats. § 125.04(12)(b). The granting of the transferred license to the new licensee is to be reviewed in the same manner as the granting of a new license by the village board.

(b) *Places.* Licenses issued pursuant to this chapter may be transferred to another premises once during any license year as provided in Wis. Stats. § 125.04(12). Application for such transfer shall be made on forms furnished by the state department of revenue. Proceedings for such transfer shall be had in the same manner and form as the original application. The fee for such transfer shall be as stated in section 6-8.  
(Code 1993, § 12.03(8))

#### **Sec. 6-16. Regulation of licensed premises and licensees.**

(a) *Gambling and disorderly conduct.* Each licensed premises shall be conducted in an orderly manner at all times, and no disorderly, riotous or indecent conduct or gambling shall be allowed on any licensed premises at any time.

(b) *Employment of underage persons.* No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage.

(c) *Sales by clubs.* No club shall sell intoxicating liquors or fermented malt beverages, except to members and guests invited by members.

(d) *Safety and sanitation requirements.* Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which it is used.  
(Code 1993, § 12.03(9))

#### **Sec. 6-17. Closing hours.**

No premises for which a retail liquor or fermented malt beverage license has been issued shall remain open for the sale of alcohol beverages during the following hours:

- (1) *Retail class "A" licensees:* Between 12:00 midnight and 8:00 a.m.
- (2) *Retail "class A" licensees:* Between 9:00 p.m. and 8:00 a.m.
- (3) *Retail class B licensees:* Between 2:00 a.m. and 6:00 a.m. on weekdays and between 2:30 a.m. and 6:00 a.m. on Saturdays and Sundays. On January 1, a premises operating under a class B license is not required to close. No package, container or bottle sales may be made after 12:00 midnight.

Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.  
(Code 1993, § 12.03(10))

**Sec. 6-18. Underage persons.**

- (a) Any underage person who does any of the following is guilty of a violation:
  - (1) Procures or attempts to procure alcohol beverages.
  - (2) Knowingly possesses or consumes alcohol beverages.
  - (3) Enters or is on licensed premises in violation of Wis. Stats. § 125.07(3)(a).
  - (4) Falsely represents his age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) Any underage person not accompanied by his parents, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverages is guilty of a violation.
- (c) The following fines shall be imposed for violations of this section:
  - (1) For a first violation, a forfeiture of not more than \$200.00.
  - (2) For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$300.00.
  - (3) For a violation committed within 12 months of two or more previous violations, a forfeiture of \$400.00.
- (d) This section does not prevent an underage person in the employ of a licensee or permittee from possessing alcohol beverages for sale or delivery to customers.  
(Code 1993, § 12.03(11))

**Sec. 6-19. Revocation, suspension and nonrenewal of licenses.**

The following provisions shall apply to the revocation, suspension or nonrenewal of any license issued pursuant to this chapter, notwithstanding any other provision of this Code, except provisions providing for revocation or suspension of any license by the court. The provisions in this section are in addition to any other provisions of this Code.

- (1) *Complaint.* Upon complaint made in writing under oath by any person and filed with the clerk-treasurer that any person or other entity licensed pursuant to this chapter has violated any provision of this chapter or any provision of law; has failed to maintain the premises according to standards prescribed for sanitation by the village health office; that the licensee has not observed and obeyed any lawful order of the village or police officer; or for any other good reason, the village board or license committee shall issue a summons commanding the licensee complained of

to appear before the license committee or a special committee designated by the village board on a day and time, and at a place named in the summons to show cause why the license should not be revoked or suspended. Such summons shall be served not less than three, nor more than ten days before the time at which the licensee is commanded to appear and may be served personally upon the licensee or his agent, or upon the person in charge of the licensed premises. The complaint shall be served with the summons and shall set forth the offense allegedly committed, the date and place of such offense, and the facts constituting the alleged offense.

(2) *Procedure on hearing.*

- a. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and, if the license committee finds the allegations sufficient, the license shall be revoked. The clerk-treasurer shall give notice of the revocation to the person whose license is revoked.
- b. The license committee shall serve as the hearing agency for the village board. The chair of the license committee or his designee shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. As far as practicable, the rules of evidence provided in Wis. Stats. § 227.45 shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence. If the licensee appears as required by the summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross examine witnesses and be represented by counsel. The licensee shall be provided with a written transcript of the hearing, at his expense. All proceedings and testimony shall be recorded on tape and transcribed, unless waived by both the complainant and the licensee. If either party requests a stenographic recording and transcription, village staff shall make the necessary arrangements, but the expense shall be borne by the requesting party. The secretary to the license committee shall mark and receive all exhibits admitted into the record. Within 20 days of the completion of the hearing, the license committee shall submit a report to the village board, including findings of fact, conclusions of law and a recommendation as to what action, if any, the village board should take with respect to the license. The license committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or the licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the village board. The village board shall determine whether the arguments shall be represented orally

or in writing, or both. At the meeting of the village board after the filing of the license committee's recommendation, the village board shall act on the recommendation. If the recommendation is based upon a stipulation of the parties, the village board may accept or reject the recommendation by a simple majority vote. If the village board rejects the recommendation, the matter shall be referred back to the license committee for a full fact finding hearing. If the recommendation is based upon a full fact finding hearing, the recommendation shall become the decision of the village board, unless reversed or modified by a simple majority vote. No further evidence shall be allowed before the village board. Only the members of the village board who have certified to the clerk-treasurer in writing that they have read the transcript, unless waived by both the complainant and licensee, exhibits and report of the license committee shall be permitted to vote on the matter. If the village board finds the complaint to be true, after considering the license committee's report and any arguments presented by the complainant or the licensee, or if there is no objection to the report recommending suspension or revocation, the license shall be suspended for not less than three days, nor more than 90 days, or revoked. The decision of the village board shall be a final determination for purposes of judicial review. If the complaint is found to be true, the licensee shall pay the actual costs of the proceedings to the village.

- (3) *Notice.* The clerk-treasurer shall give notice of each license suspension or revocation to the person whose license is suspended or revoked.
- (4) *Dismissal.* If the village board finds the complaint to be untrue, the proceeding shall be dismissed without cost to the accused. If the village board finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. The village board or license committee may require the complainant to provide security for such costs before issuing the summons under subsection (1) of this section.
- (5) *Effect of revocation.* When a license is revoked under this section, the revocation shall be recorded by the clerk-treasurer and no other license issued under this chapter shall be granted to such licensee or for such premises for a period of 12 months from the date of the revocation.
- (6) *Judicial review.* The action of the village board in granting, failing to grant, suspending or revoking any license or the failure of the village board to revoke or suspend any license for good cause may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or resident of the village.

- (7) *Nonrenewal of license.* The village attorney may, after investigation, hear evidence and make a recommendation to the village board that a license issued pursuant to this chapter not be renewed. The president shall notify the licensee in writing of the consideration of nonrenewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the nonrenewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommended for nonrenewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. In all other respects, the provisions of sections 6-1 and 6-2 shall apply.
- (8) *Other regulations and restrictions.* Any license issued pursuant to this chapter shall be subject to such further regulations and restrictions as may be imposed by the village board. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations, his license may be revoked in accordance with this chapter. In case of revocation of any license or any violation of any provision of this section in accordance with this chapter, or by the court or for any reasonable cause, except the imposition of new restrictions, no refund shall be made of any part of the license fee. If a license issued under this chapter is not used within 15 days after its issuance or its usage is discontinued for a period of 15 days or more, such situation shall be grounds for cancellation of the license in accordance with the provisions of this chapter.
- (9) *Point values for license violations, revocations and suspensions.*
- a. *Purpose.* The purpose of this subsection is to administratively interpret the portions of this chapter relating to establishing an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.
  - b. *Scale.* The scale of demerit points is listed according to the type of alcohol beverage violation. The demerit point system is used to identify habitually troublesome license holders who have repeatedly violated statutes and any provision of this Code for the purpose of recommending suspension or revocation of their alcohol beverage licenses. In construing the number of points to be assessed for an alleged violation, it is the Code section number, rather than the type of the violation which shall control.

## VIOLATIONS OF VILLAGE ORDINANCES

Code Section Number	Type of Violation	Point Value
6-2	License required	100
6-11	False statement on application	100
6-13(k)	Limitation on use of area outside licensed premises	100
6-13(l)	Continuity of business required	50
6-13(n)	Curtains and doors to be open	100
6-13(o)	Premises to be kept open to public	50
6-13(p)(4)	Certain entertainment and other practices prohibited	100
6-13(p)(5)	Certain acts prohibited; simulation prohibited	100
6-13(p)(6)	Stage areas limited	50
6-13(p)(7)	Disorderly conduct prohibited	25
6-13(p)(8)	Solicitation prohibited	50
6-13(p)(9)	Fraternization prohibited	50
6-15	Transfer of license without permission	50
6-16(a)	Gambling and disorderly conduct prohibited	25
6-16(b)	Employment of underage persons prohibited	100
6-16(c)	Sales by clubs limited	25
6-16(d)	Safety and sanitation requirements	25
6-17	Closing hours	50
Any other village ordinance		20

## VIOLATIONS OF STATUTES

Wis. Stats. Section Number	Type of Violation	Point Value
125.04(10)	Failure to frame and post license	25
125.07(1)	Traffic to underage person	50
125.07(2)	Traffic to intoxicated person	50
125.07(3)	Presence of minor in places of sale	25
125.07(7)	Failure to keep proper book	25
Any other provision of Wis. Stats. ch. 125		20

- c. *Calculation of violations.* As the basis for determining the accumulated demerit points against a license within 12 months, the village shall use the date each violation was committed.

d. License suspension and revocation.

1. For purposes of a revocation or suspension hearing, the license committee shall call before it all licensees holding alcohol beverage or service licenses who have accumulated 100 points in a 12-month period as a result of court imposed convictions or who have had reports referred to the license committee from the village attorney which, if believed, would result in 100 demerit points in 12 months. In instances in which a licensee has accumulated less than 50 demerit points as determined by the village attorney and additional violations on one date would result in the accumulation of at least 50 points, but not more than 200 points, the license committee may call such licensee before it for purposes of a formal expression of concern. If the licensee appears, no discussion of the alleged facts underlying the assessment of demerit points shall be permitted unless the licensee requests such discussion, but only if the licensee is advised that any statements made by him and/or his representatives regarding the alleged facts may be considered by the license committee in any subsequent suspension/revocation hearing which may result from the alleged violations which are the subject of the formal expression of concern. Whether the licensee appears, or not, points shall still be assessed for the alleged violations which triggered the formal expression of concern. Service of the notice to appear shall be by first class mail sent to the agent if the licensee is a corporation, to the licensee if an individual or to any partner if the licensee is a partnership. If the notice is returned by the post office as undeliverable, the notice may be left with any employee found on the licensed establishment at least 24 hours before the date and time of the scheduled appearance before the license committee. A formal expression of concern in lieu of the assessment of demerit points may only occur once within a three-year period.
2. If the demerit point accumulation calculated from the date of violation meets or exceeds 100 points in a 12-month period, the suspension shall be for not less than three days, nor more than 90 days. If the license is revoked, no other license shall be granted to such licensee for a period of 12 months from the date of such revocation.

3. The procedure to be used for license suspension or revocation shall be that found in this section.

(Code 1993, § 12.03(12); Ord. No. 3-2009, 1-26, 2009)

#### **Sec. 6-20. Violations by agents and employees.**

A violation of this chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(Code 1993, § 12.03(14))

#### **Sec. 6-21. Sale of fermented malt beverages and intoxicating liquors at drive through dispensaries.**

(a) No license shall be issued to any person, firm, corporation or entity for the retail sale of any intoxicating liquor or fermented malt beverage at or from any type of "drive through" dispensary.

(b) No retail establishment with a license to sell intoxicating liquor and/or fermented malt beverages shall sell either intoxicating liquors or fermented malt beverages to any member of the public by way of a drive through dispensary.

(Ord. No. 14-2005, 8-8-2005)

#### **Sec. 6-22. Mandatory identification examination.**

(a) *Required acts and conditions.* All holders of a Class A license shall be required to ask for and examine identification of any individual who attempts to purchase alcoholic liquor in order to determine whether said individuals can lawfully purchase alcohol. The form of the identification to be examined shall be at the discretion of the license holder and may include a driver's license, state identification card or membership in an organization which requires its members to be 50 years of age or older; or such other identification which unmistakably depicts the holder of same to be over 21 years of age. Alternatively, the licensee may register the identification information, including a photograph, of its customers and keep such information on file on the premises. In such case, when the customer attempts to purchase alcohol, the file must be reviewed by the licensee or its agent for any customer who elects this alternative method of checking identification.

(b) *Signage.* All Class A licensed establishments shall display a sign on the licensed premises advising the customers of the mandatory identification examination requirement, which sign shall be provided by the village and in such form as approved by the village.

(Ord. No. 4-2009, § 1, 4-1-2009)

#### **Secs. 6-23--6-50. Reserved.**

## **ARTICLE II.**

### **CABARETS**

#### **Sec. 6-51. Permit required; termination date.**

(a) No holder of a retail class "B" alcohol beverage license shall perform, engage in or permit the following activities by patrons or hired performers upon the licensed premises without first obtaining a cabaret permit from the clerk-treasurer:

- (1) Live music performances.
- (2) Specifically advertise or feature dancing.
- (3) Live entertainment, including, but not limited to, the performance of any act, play or stunt, amateur talent contest or disc jockey show.

(b) A cabaret permit shall terminate as a matter of due course on the date the holder thereof ceases to hold a retail class "B" alcohol beverage license without refund of any portion of the license fee for such permit.

(Code 1993, § 12.17(1))

#### **Sec. 6-52. Permit issuance; fees.**

A cabaret permit will be issued, subject to the conditions and regulations set forth in this section, upon application to the clerk-treasurer and the payment of the fee as specified in section 6-8.

(Code 1993, § 12.17(2))

#### **Sec. 6-53. Regulations.**

(a) No dancing shall be permitted within six feet of a bar over which patrons are directly served.

(b) While dancing is in progress, the dance area shall be illuminated by at least two footcandles per square foot.

(c) Good order shall be maintained at all times.

(d) The management shall obey all reasonable orders or directions of any police officer or official dance supervisor.

(e) The performance of any act, stunt or dance by performers under the auspices of the management shall be given only on a stage, platform or floor which is separated by a railing or other device from the patrons so as to deter patrons from participating in any act, stunt or dance. Patrons may not tip the entertainers or performers by placing money or other articles of value in their costumes or otherwise engaging in physical contact with the entertainers or performers.

(f) No permit holder, personally or through his agent or employee, shall permit any patron to participate in any act, stunt or dance with performers who are under the auspices or furnished by the management.

(g) No patron shall participate in any act, stunt or dance by performers who appear under the auspices of the management.

(h) All permit holders shall abide by the provisions of section 6-13(p), relating to the prohibition of certain entertainment and other practices.

(i) No patron shall participate in any amateur striptease, wet T-shirt or similar contest.  
(Code 1993, § 12.17(3))

#### **Sec. 6-54. Permit revocation.**

Upon written charges made and filed with the clerk-treasurer by the chief of police or any citizen, the village board may, after a public hearing thereon, revoke any permit issued under this article.  
(Code 1993, § 12.17(4))

#### **Secs. 6-55--6-90. Reserved.**

### **ARTICLE III.**

#### **NONINTOXICATING BEVERAGES**

##### **Sec. 6-91. Licenses.**

(a) *Class "E" nonintoxicating beverages.* A class "E" license shall authorize the manufacture, sale and distribution of nonintoxicating beverages and the sale of soda water beverages. A fee, as stated in section 6-8, shall be charged per year or fractional part thereof.

(b) *Class "F" soda water beverages.* A class "F" license shall authorize the sale of soda water beverages to be consumed on or off the premises where such beverages are sold. A fee, as stated in section 6-8, shall be charged per year or fractional part thereof.  
(Code 1993, § 12.13)

**Chapters 7--9**

**RESERVED**

## Chapter 10

### ANIMALS\*

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\* **Cross References:** Health and sanitation, ch. 38; keeping of animals and fowl, § 38-37; keeping dogs, § 62-5.

**State Law References:** Dog tax, Wis. Stats. § 174.05; rabies vaccine required, Wis. Stats. § 174.052; rabies control program, Wis. Stats. § 95.21.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 10-1.	Definitions; license required; incorporation of statutory regulations.		
Sec. 10-2.	Rabies vaccinations.	03-2011	01/24/11
Sec. 10-3.	Licenses and permits.	03-2011	01/24/11
Sec. 10-4.	Late fees.	03-2011	01/24/11
Sec. 10-5.	Rabies control.		
Sec. 10-6.	Dogs, cats, fowl and other animals.		
Sec. 10-7.	Impoundment of animals.		
Sec. 10-8.	Domestically owned animals in cemeteries and on schoolgrounds.		
Sec. 10-9.	Duty of owner in case of animal bite.		
Sec. 10-10.	Animal feces.		
Sec. 10-11.	Injury to property by animals.		
Sec. 10-12.	Habitually noisy animals.		
Sec. 10-13.	Protected and prohibited animals, fowl, reptiles and insects.		
Sec. 10-14.	Rabbits, chicks and artificially colored animals.		
Sec. 10-15.	Provision of proper food and drink to confined animals.		
Sec. 10-16.	Provision of proper shelter.		
Sec. 10-17.	Neglected, abandoned and injured animals.		
Sec. 10-18.	Cruelty to animals and birds.		
Sec. 10-19.	Trapping animals.		
Sec. 10-20.	Animalnapping.		
Sec. 10-21.	Vehicle accidents.		
Sec. 10-22.	Sale or display of certain birds in food establishments.		
Sec. 10-23.	Keeping bees.		
Sec. 10-24.	Care of livestock.		
Sec. 10-25.	Number of dogs and cat.		
Sec. 10-26.	Slaughterhouses.		
Sec. 10-27.	Violations; penalties.		

**Sec. 10-1. Definitions; license required; incorporation of statutory regulations.**

(a) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Animal* means mammals, reptiles and birds.

*At large* means to be off the premises of the owner and not under the control of a person by leash. However, a dog, cat, potbellied pig or ferret within an automobile of its owner or with the consent of the owner shall be deemed to be upon the owner's premises. Hunting dogs, under the control of the owner when hunting with the landowner's permission, and law enforcement animals are exempt from this definition.

*Cat* means any feline, regardless of age or sex.

*Coop* means any barn, warren or other structure, together with the yard in connection therewith, used for the housing of any chicken, rabbit or other small animal or bird, except dogs.

*Cruel* means causing unnecessary and excessive pain or suffering, or unjustifiable injury or death.

*Dog* means any canine, regardless of age or sex.

*Farm animal* means any animal normally raised on a farm in the United States and used for food or fiber. Such term also includes horses, donkeys, mules and ponies.

*Law enforcement officer* has the meaning as it appears in Wis. Stats. § 967.02(5), and includes a humane officer under Wis. Stats. § 58.07, but does not include a conservation warden appointed under Wis. Stats. § 23.10.

*Leash* means a cord, thong or chain not more than ten feet in length, by which an animal is controlled by the person accompanying the animal. A retractable lead may also be used by a responsible individual if the lead is of adequate strength to control the animal. Retractable leads shall only be used in open areas.

*Neutered* and *spayed* mean a dog, cat, potbellied pig or ferret having nonfunctional reproductive organs.

*Offensive business* means the killing or dressing, or both, of any animal in the usual course of a business or occupation, except the killing or dressing, or both, by farms of animals produced on their own farms where such killing or dressing, or both, occurs.

*Owner* means any person owning, harboring or keeping a dog, cat, potbellied pig or ferret, and the occupant of any premises on which a dog, cat, potbellied pig or ferret

remains or to which it customarily returns daily for a period of 30 days. An occupant of any premises on which a dog, cat, potbellied pig or ferret remains or to which it customarily returns daily for a period of 30 days is presumed to be harboring or keeping the dog, cat, potbellied pig or ferret within the meaning of this definition. Such term shall not apply to veterinarians, kennel operators or qualified nonprofit animal rescue groups (e.g., 501-c3) temporarily maintaining animals owned by others on their premises.

*Pet* means a domestically owned animal.

*Potbellied pig* means a purebred Vietnamese potbellied pig, registered through a North American Vietnamese potbellied pig registry. Potbellied pigs may not exceed 100 pounds in weight.

*Service animal* means any guide dog, signal dog or other animal trained to provide assistance to an individual with a disability.

*Slaughterhouse* means a place where cattle, swine, sheep, goats or horses are killed or dressed, or both, for human consumption, except by farmers of animals produced on their own farms where killing or dressing, or both, occurs, and except occasionally such killing or dressing, or both, by individuals for their own use.

*Stable* means any barn, sty, building or other structure, together with the yard in connection therewith, used for the housing of any horse, cow, pig, sheep, goat or other animal, except only dogs, chickens, rabbits or other small animals and birds.

*Veterinarian* means a person duly licensed to practice veterinary medicine in the state and possessing a doctor's degree in veterinary medicine.

*Vicious or dangerous animal* means:

- (1) Any animal that, when unprovoked, attacks, bites or injures a human being, pet, companion animal or livestock on either public or private property;
- (2) Any animal that has a history, known to the owner thereof, of attacking, without provocation;
- (3) Any animal trained or used for fighting against another animal.

Notwithstanding this definition of the term "vicious or dangerous animal," no animal may be declared vicious if death, injury or damage is sustained by a person who, at the time such death, injury or damage was sustained, was committing a criminal trespass upon the premises occupied by the owner of the animal, or was teasing, tormenting, abusing or assaulting the animal or was committing, or attempting to commit, a crime, or violating, or attempting to violate, an ordinance which protects persons or property. No animal shall be declared to be vicious if death, injury or

damage was sustained by a domestic animal which, at the time such death, injury or damage was sustained, was teasing, tormenting, abusing or assaulting the animal. No animal may be declared to be vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault. This definition shall not be construed to include animals that are part of a governmental organization or a trained guard dog in the performance of its duties. Any person who owns or harbors a vicious animal that has, on the basis of two or more previous violations of this chapter, shall be required to have such animal destroyed. Failure to comply with this provision shall constitute a separate offense and subject such person to the provisions of section 1-15, and such animal may be taken into custody by the police or other authorized agent of the village for the purpose of having such animal destroyed. This definition shall not apply to an attack or biting by an animal when such animal is within the confines of a fenced in or enclosed building area, if such building or fenced in area has a sign warning or stating, "Beware of Dog," or other animal.

(b) *License required.* It shall be unlawful for any person in the village to own, harbor or keep any dog or cat more than six months of age after July 1 of the license year without complying with the provisions of this chapter relating to the listing, licensing and tagging of such dog or cat.

(c) *Incorporation of statutory regulation.* Wis. Stats. §§ 174.01--174.046, and such sections as may be amended and/or renumbered, are hereby incorporated by reference with respect to restraining action against dogs, the imposition of forfeitures for violations of such regulations and other regulations of dogs imposed under this Code, and the impoundment and subsequent delivery, treatment and disposition of dogs; provided, however, that this subsection shall not be construed to restrict or limit any authority granted to the police department with respect to the regulation of dogs and shall not operate to reduce any forfeitures or other penalties which might otherwise be imposed under this Code.

(Ord. No. O1-2003, § 7-1-1, 1-14-2003)

**Cross References:** Definitions generally, § 1-2.

**State Law References:** Similar provisions, Wis. Stats. §§ 174.05--174.10.

## **Sec. 10-2. Rabies vaccinations.**

(a) *Requirement for vaccination.* The owner of a dog or cat shall have the dog or cat vaccinated against rabies by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician, pursuant to s. 453.05(2)(d), at no later than 5 months of age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog or cat into this state after the dog has reached 5 months of age, the owner shall have the dog or cat vaccinated against rabies within 30 days after the dog or cat is obtained or brought into the state unless the dog or cat has been vaccinated as evidenced by a current certificate of rabies vaccination from this state or another state. The owner of a dog or cat shall have the dog or cat revaccinated against rabies by a veterinarian or, if a veterinarian is physically present at the location the vaccine is administered, by a veterinary technician, pursuant to s. 453.05(2)(d), before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within three years after the previous vaccination.

(b) *Exemption from vaccination.* Any dog or cat which a veterinarian licensed by the state issues a certificate to the effect that the proposed vaccination will be harmful shall be exempt from the vaccination prescribed by this article.

(c) *Proof of vaccination and licensing for dogs and cats.* Owners of dogs or cats must provide required rabies vaccination and licensing certificates upon request by personnel authorized to do so by the village.

### **Sec. 10-3. Licenses and permits.**

(a) *Dog and cat licenses.*

- (1) It shall be unlawful for any person in the village to own, harbor or keep a dog or cat more than six months of age without complying with the provisions of Wis. Stats. §§ 174.05--174.10, relating to the listing, licensing and tagging of dogs and cats.
- (2) The owner of any dog or cat more than six months of age on January 1 of any year, or six months of age within the license year, shall annually, or on or before the date the dog or cat becomes six months of age, pay a license tax and obtain a license for such dog or cat.
- (3) The license year shall be from January 1--December 31. The village board, by resolution, shall establish a minimum dog or cat license tax for a neutered male dog or cat, or spayed female dog or cat, upon presentation of evidence that the dog or cat is neutered or spayed, and for an unneutered male dog or cat, or unsplayed female dog or cat.
- (4) Upon payment of the required license tax and presentation of evidence that the dog or cat is currently immunized against rabies as required by section 10-2, the clerk-treasurer shall complete and issue to the owner a license for such dog or cat, containing all information required by state law. The clerk-treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material, bearing the same serial number as the license, the name of the county in which issued and the license year.
- (5) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog or cat for which the license is issued at all times, except as provided in section 10-2(d)(1). The owner shall keep the license readily available for inspection by law enforcement officers if the dog or cat is involved in an at large and/or biting incident. A dog or cat observed without a tag attached to its collar shall be presumed to be unlicensed and may be seized, impounded or restrained by any police or humane officer, or the owner may be cited.

- (6) Upon annual application with the clerk-treasurer, the license fee shall be waived for any animal specifically trained as a service animal.
  - (7) A special half price rate will be given to senior citizens 65 years of age or older, but only if such person's dog or cat is neutered. Such special rate does not apply to pet fanciers.
- (b) *Kennel licenses.*
- (1) *Definition.* For the purposes of this subsection (b), the term "kennel" means a permanent shelter for more than three dogs that are more than six months of age, except shelters for which a pet fancier permit is issued under subsection (c) of this section.
  - (2) *Required.* Any person who provides permanent shelter for more than three dogs that are more than six months of age shall be required to obtain a kennel license unless such person has a pet fancier permit under subsection (c) of this section.
  - (3) *Exemption.* The county's animal control facility is covered under a separate contract and is exempt from the requirements of this subsection (b).
  - (4) *Restrictions.* No kennel license shall be issued to any person for any residentially zoned lot, except persons currently holding a kennel license, provided that all of the other provisions of this chapter are complied with. Every dog kennel shall be located and operated at least 200 feet from the nearest inhabited dwelling, exclusive of the dwelling of the person operating such dog kennel. Dog kennels existing on the effective date of the ordinance from which this section is derived, which are not located and operated at least 200 feet from any such dwelling, may remain in existence, but shall not be improved or extended in violation of the provisions of this section. (See zoning restrictions set forth in section 90-311(d) and 90-671(d).)
  - (5) *Public hearing for new licenses.* A public hearing for a new license shall be held by the licensing committee of the village board to ensure that the issuance of the license is not contrary to the public's health, safety or welfare.
  - (6) *Issuance of new licenses.*
    - a. After a public hearing, upon recommendation by the licensing committee and payment of the appropriate fee, the village board may approve the issuance of a kennel license.

- b. Upon presentation of evidence to the clerk-treasurer that all dogs over six months of age are currently immunized against rabies, the clerk-treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel.
- c. Any such license shall be subject to compliance with sections 10-10 and 10-25 of this chapter and section 22-112 of the county zoning code.

(7) *Renewal.*

- a. The renewal application for each kennel license must be reviewed and approved by the licensing committee. Upon recommendation by the licensing committee and payment of the proper fee, the renewal license may be issued.
- b. Any such license shall be subject to compliance with sections 10-16 and 10-25 of this chapter and section 22-112 of the county zoning code.

(8) *Fees.* Applicants for any kennel license covering up to 12 dogs shall pay an annual fee as set by the village board. An additional fee as set by the village board shall be charged for each dog in excess of 12.

(9) *Revocation.* In the event of a complaint regarding a current kennel license, the licensing committee may discuss the complaint at a public hearing and take appropriate action, up to, and including, revocation.

(10) *Tags required.* The owner or keeper of a kennel shall at all times keep a kennel license tag attached to the collar of each dog over six months of age, except during competition or training.

(11) *Transfer of tags.* Tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel; however, the rabies vaccination tag or substitute tag shall at all times remain attached to the dog for which it is issued, except on a show dog during competition or training.

(12) *Strays and taking outside kennel limits.* No dog bearing a kennel tag shall be permitted to stray or be taken any place outside the limits of the kennel unless the dog is on a leash or on a temporary basis for the purpose of hunting, breeding, trials, training or competition.

(13) *Fenced in areas.* Kennel owners shall provide adequate housing and care for the animals, including a fenced in run area sufficient to accommodate the number of dogs in the kennel. (See section 10-16.)

**State Law References:** Similar provisions, Wis. Stats. § 174.053.

(c) *Pet fancier permit.*

(1) *Required.*

- a. Any person who resides in a single-family dwelling may apply for a pet fancier permit to allow such person to provide permanent shelter for up to seven pets.
- b. Residents of multiple-family units are only allowed two animals per unit, and may not be issued a pet fancier permit.

(2) *Issuance of new permit.*

- a. The Clerk Treasurer may approve the issuance of a pet fancier permit upon such conditions as it deems appropriate.
- b. The Clerk Treasurer may issue a pet fancier permit, upon evidence that each pet to be covered by the pet fancier permit is properly licensed under subsection (a) of this section.
- c. All pet fancier permits, whether new or renewed, shall be subject to compliance with all applicable provisions of this chapter, as well as any applicable provisions of this Code.
- d. The permit year shall be from January 1 through December 31, the same as pet licensing term.

(3) *Renewal.*

- a. Pet fancier permits shall be renewed annually.

(4) *Amendments.* The Clerk Treasurer may issue an amended pet fancier permit if the holder of the permit requests to delete and/or add a pet to the permit, provided the number of pets do not exceed the total allowed by the permit and provided evidence is presented to the Clerk Treasurer to show that any pets to be added to the permit are properly licensed under subsection (a) of this section.

(5) *Fee.* Applicants for any pet fancier permit shall pay a nonrefundable annual fee as set by the village

(6) *Revocation.* If there are complaints regarding a current pet fancier permit, the Licensing Committee may schedule a public hearing on the matter and take appropriate action up to, and including, revocation of the permit.

(7) *Adequate housing and care required.* A holder of a pet fancier permit shall provide adequate housing and care for the animals.  
(Ord. No. 01-2003, § 7-1 3,

#### **Sec. 10-4. Late fees.**

The collecting official shall assess and collect a late fee of \$10.00 established by the village board from any owner of a dog, cat five months of age or older, if the owner fails to obtain a license prior to February 1st of each year or within 30 days of acquiring ownership of a licensable dog or cat or if the owner failed to obtain a license on or before the dog or cat reached licensable age. All late fees collected shall be paid in to the village treasury. In addition, if the village gives written notice to the owner of any licensable dog, cat and the owner fails to pay the late fee within 30 days after such notice, the owner shall be liable for prosecution for a violation of this section under section 1-15.

The village clerk shall, in addition to the license fee provided for in this article, assess and collect a late fee of \$10.00 for every application for a license for a dog, or cat more than five months of age, unless such application is made prior to February 1st of any calendar year or unless such application is made within 30 days of acquiring ownership of a licensable dog or cat, whichever is later.

#### **Sec. 10-5. Rabies control.**

See section 39-3.  
(Ord. No. 14-2009, § 28, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 28, adopted Oct. 26, 2009, repealed § 10-5, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 10-5 pertained to similar subject matter. See Code Comparative Table for derivation.

#### **Sec. 10-6. Dogs, cats, fowl and other animals.**

(a) *Ownership restricted.* It shall be unlawful for any person within the village to own, harbor or keep any domestic animal which:

- (1) Habitually pursues any vehicle upon any public street, alley or highway in the village.
- (2) Assaults or attacks any person as described in subsection (b) of this section, or destroys property.
- (3) Is at large within the village limits.
- (4) Habitually barks or howls to the annoyance of any person. (See section 10-12.)
- (5) Kills, wounds or worries any domestic animal.

- (6) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
- (7) Is unlicensed, in the case of a dog or cat.

(b) *Vicious animals.*

- (1) No vicious animal shall be allowed off the premises of its owner unless such animal is muzzled and/or on a leash in the charge of the owner or a member of the owner's immediately family who is over 16 years of age. For purposes of enforcing this subsection (b), an animal shall be deemed as being of a vicious disposition if, within any 12-month period, it attacks, bites or injures a human being, pet, companion animal or livestock in unprovoked circumstances off of the owner's premises. Any vicious animal which is found off the premises of its owner, other than as provided in this subsection, may be seized by any person and, upon delivery to the proper authorities, may, upon establishment to the satisfaction of a court of competent jurisdiction of the vicious character of the animal, by testimony, under oath, reduced to writing, be euthanized by the police authorities.
- (2) No person shall harbor or permit to remain on their premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after vehicles.

(c) *Running at large.* It shall be unlawful for the owner or keeper of any animal to permit or suffer such animal to be at large. For the purposes of this subsection, the term "at large" means that such animal is off the premises of its owner or keeper and upon any public street or alley, schoolground, public park or any other public or private property without the permission of the owner of the property; provided, however, an animal shall not be deemed to be at large if it is:

- (1) Attached to a leash not more than ten feet in length, or a retractable leash which is of sufficient strength to restrain the animal, the leash is held by a person at least ten years of age and physically able to control the animal, and prevents the animal from annoying or worrying pedestrians or trespassing on private property or public property where animals are forbidden; or
- (2) Properly restrained within a motor vehicle.

(d) *Owner's liability for damage caused by dog; penalties.* The provisions of Wis. Stats. § 174.02 relating to the owner's liability for damage caused by animals, together with the penalties set forth in such statute, are hereby adopted and incorporated in this section by reference.

## **Sec. 10-7. Impoundment of animals.**

### **(a) *Animal control agency.***

- (1) The village may contract, or enter into an agreement, with a person to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and assisting in the administration of rabies vaccination programs.
- (2) The village does hereby delegate to any such animal control agency the authority to act pursuant to the provisions of this section.

(b) *Reasons.* In addition to any penalty provided for a violation of this chapter, any police or animal control officer may impound any dog, cat or other animal which habitually pursues any vehicle upon any street, alley or highway of the village, assaults or attacks any person, is at large within the village, habitually barks, cries or howls, kills, wounds or worries any domestic animal or is infected with rabies. In order for an animal to be impounded, the impounding officer must see or hear the violation of this section or have in his possession a signed statement of complaining witness, made under oath, alleging the facts regarding the violation and containing an agreement to reimburse the village for any damages it sustains for improper or illegal seizure.

(c) *Claiming seized animals; disposal of unclaimed animals.* After seizure of animals under this section by a law enforcement or animal control officer, the animal shall be impounded. The officer shall notify the owner, either personally or through the U.S. mail, if such owner is known to the officer or can be ascertained with reasonable effort. If, within seven days after impoundment, the owner does not claim such animal, the officer may either sell or dispose of the animal in a proper and humane manner. If an animal bit a person before being impounded, the animal shall be retained in the animal shelter for a period of ten days for observation purposes. Within such time, the owner may reclaim the animal upon payment of impoundment fees established by resolution of the village board. In the alternative, animal control or humane agencies serving the village may provide notice pursuant to their operating procedures and state law. No animal shall be released from the pound without being properly licensed, as required by state law or this chapter.

(d) *Liability.* The village and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this section.  
(Ord. No. 01-2003, § 7-1-7, 1-14-2003)

## **Sec. 10-8. Domestically owned animals in cemeteries and on schoolgrounds.**

(a) No domestically owned animal shall be permitted in any public cemetery, except service animals and law enforcement animals.

(b) No person shall walk a pet upon public or private schoolgrounds unless express permission from persons in control of the schoolgrounds has been secured.  
(Ord. No. 01-2003, § 7-1-8, 1-14-2003)

## **Sec. 10-9. Duty of owner in case of animal bite.**

See section 39-3.

(Ord. No. 14-2009, § 29, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 29, adopted Oct. 26, 2009, repealed § 10-9, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 10-9 pertained to similar subject matter. See Code Comparative Table for derivation.

## **Sec. 10-10. Animal feces.**

(a) *Public and private property.* It shall be unlawful for any person in immediate control of any animal to permit fecal matter which is deposited by such animal while off of its own premises to remain on any street, alley, sidewalk, lawn, field or any public property, and it shall be solely the responsibility of the person in control of such animal to immediately, after such deposit, remove and dispose of all such fecal matter. Any person owning or having control of an animal on any property, public or private, which is owned or occupied by such person, shall promptly remove excrement left by such animal and place it in a proper receptacle, bury it or flush it in a toilet on property owned or occupied by such person. This subsection shall not apply to a person who is visually or physically handicapped. Any person causing or permitting an animal to be on any property, public or private, not owned or occupied by such person shall have in his immediate possession a device or object suitable for removal of excrement and a depository for the transmission of excrement to the property owned or occupied by such person.

(b) *Complaints of neighbors.* If a neighbor complains of fecal odor from a resident's property who owns animals, the health department or police department may issue an order to correct such nuisance. If such nuisance is not corrected, a citation may be issued.

(c) *Filing complaints with police department.* Any adult person, alone or together with other adults, may seek relief from animal fecal matter deposits as described in subsection (a) and/or (b) of this section by making a complaint to the police department.  
(Ord. No. 01-2003, § 7-1-10, 1-14-2003)

## **Sec. 10-11. Injury to property by animals.**

It shall be unlawful for any person owning or possessing an animal to permit such animal to go upon any parkway, or private land or premises without the permission of the owner of such land or premises, and to habitually break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden, in any manner whatsoever, or to defecate or urinate thereon.  
(Ord. No. 01-2003, § 7-1-11, 1-14-2003)

## **Sec. 10-12. Habitually noisy animals.**

It shall be unlawful for any person to knowingly keep or harbor any animal which habitually barks, howls, yelps or cries to the great discomfort of the peace and quiet of the neighborhood or in such a manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such animals are hereby declared to be a public nuisance. An animal is considered to be in violation of this section when written complaints from two or more

adults living in separate residences within audible distance of the noisy animal are filed with the police department within a four-week period. No prosecution shall be commenced, except upon the request of the police department, following a written petition signed by two or more adult persons residing at different residences.

(Ord. No. 01-2003, § 7-1-12, 1-14-2003)

**Sec. 10-13. Protected and prohibited animals, fowl, reptiles and insects.**

(a) *Protected animals.*

- (1) *Possession and sale.* It shall be unlawful for any person to possess, with the intent to sell or offer for sale, or buy or attempt to buy, within the village, any of the following animals, alive or dead, or any part or product thereof:
  - a. Any wild cat of the family felidae;
  - b. Polar bear (*thalarctos maritimus*);
  - c. Red wolf (*canis niger*);
  - d. Vicuna (*vicugna vicugna*);
  - e. Alligator, caiman or crocodile of the order of crocodilia;
  - f. Gray or timber wolf (*canis lupus*);
  - g. Sea otter (*enhydra lutris*);
  - h. Pacific ridley turtle (*lepidochelys olivacea*);
  - i. Atlantic green turtle (*chelonina mydas*);
  - j. Mexican ridley turtle (*lepidochelys kemp*i).
- (2) *Compliance with federal regulations.* It shall be unlawful for any person to buy or sell, or attempt to buy or offer for sale, a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published on the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (PL 135, 91st Congress).
- (3) *Regulating the importation of certain birds.* No person shall import, or cause to be imported, into the village any part of the plumage, skin or dead

body of any species of hawk, owl or eagle. This subsection shall not be construed to forbid or restrict the importation or use of the plumage, skin or body, or any part thereof, legally collected for use by the Native Americans for ceremonial purposes or in the preservation of their tribal customs and heritage.

- (4) *Exceptions.* The provisions of this subsection (a) shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, persons holding a scientific collector's permit issued by the secretary of the state department of natural resources, or to any person or organization licensed to present a circus. The village may waive the provisions of this subsection (a) for premises with appropriate federal and state permits.

(b) *Wild animals.*

- (1) *Unlawful act.* Unless prior approval is received from the village, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the village any poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile with any vicious or dangerous propensities. Specifically, it shall be unlawful, without village approval, for any person to keep, maintain or have in his possession or under his control within the village any animal, reptile or insect, including, but not limited to:

- a. Any warmblooded, carnivorous or omnivorous, wild or exotic animal, including, but not limited to, nonhuman primates, raccoons, skunks, foxes and wild and exotic cats, but not including potbellied pigs.
- b. All poisonous animals and reptiles, including rear-fang snakes.
- c. Apes, including chimpanzees (Pan); gibbons (hylobates); gorillas (Gorilla); orangutans (Pongo); and ans siamangs (Symphalangus).
- d. Baboons (Papoi, Mandrillus).
- e. Bears (Ursidae).
- f. Bison (Bison).
- g. Cheetahs (Acinonyx jubatus).
- h. Crocodilians (Crocodilians), including alligators, caymans and gavials.

- i. Constrictor snakes.
- j. Coyotes (*Canis latrans*).
- k. Deer (*Cervidae*), including all members of the deer family (example: whitetailed deer, elk, antelope and moose).
- l. Elephants (*Elephas* and *Loxodonta*).
- m. Foxes.
- n. Game cocks and other fighting birds.
- o. Hippopotami (*Hippopotamidae*).
- p. Hyenas (*Hyaenidae*).
- q. Jaguars (*Panthera onca*).
- r. Leopards (*Panthera pardus*).
- s. Lions (*Panthera leo*).
- t. Lynxes (*Lynx*).
- u. Monkeys, old world (*Cercopithecidae*).
- v. Ostriches (*Struthio*).
- w. Pumas (*Felis concolor*), also known as cougars, mountain lions and panthers.
- x. Raccoons.
- y. Rhinoceroses (*Rhinocero tidae*).
- z. Skunks.
- aa. Snow leopards (*Panthera uncia*).
- bb. Tigers (*Panthera tigris*).
- cc. Wolves (*Canis lupus*).
- dd. Poisonous insects, including tarantulas.

(2) *Exceptions.* The prohibitions of subsection (b)(1) of this section shall not apply to:

- a. Creatures used as assistance animals.
- b. Creatures in the care, custody or control of a veterinarian for treatment; agricultural fairs; shows or projects of 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; or zoological gardens, if:
  - 1. Their location conforms to the provisions of chapter 90 of this Code.
  - 2. All animals and animal quarters are kept in a clean and sanitary condition and maintained so as to eliminate objectionable odors.
  - 3. The animals are maintained in quarters constructed to prevent their escape.
  - 4. No person lives or resides within 100 feet of the quarters in which the animals are kept.
- c. Such animals are ferrets, nonpoisonous snakes, nonconstricting snakes, rabbits and laboratory rats which have been bred in captivity and which have never known the wild.

(c) *Livestock.*

- (1) *Definition.* For the purposes of this subsection (c), the term "livestock" means cattle, horses, donkeys, swine, sheep, goats, llamas, emus, ostriches, alpacas or farm raised deer and other such animals susceptible to use for commercial purposes, including domesticated fowl, such as chickens, turkeys, geese, ducks, guineas or other poultry.
- (2) *Keeping.* It shall be unlawful for any person to keep any livestock within the village unless otherwise permitted by this Code. (See sections 90-311(d) and 90-371(c)(7).)
- (3) *Exceptions.*
  - a. Livestock may be kept on any parcel zoned for agricultural use, provided the area of the parcel is at least two acres.

- b. Livestock may be kept on any parcel zoned for residential use, provided, the area of the parcel is at least five acres and the livestock is kept more than 300 feet from every residence not on the parcel.
- c. Livestock kept on a parcel prior to the adoption of the ordinance from which this section is derived shall be allowed to remain on the parcel, notwithstanding a violation of this section, provided that the livestock is not determined by the village to be a nuisance following a hearing on the matter, if one is requested, in writing, by a neighbor residing on a parcel within 300 feet of the parcel where the livestock is kept.

(Ord. No. 01-2003, § 7-1-13, 1-14-2003)

#### **Sec. 10-14. Rabbits, chicks and artificially colored animals.**

(a) No person may sell, offer for sale, raffle, give as a prize or premium, use as an advertising device or display living chicks, ducklings, other fowl or rabbits that have been dyed or otherwise artificially colored.

(b) No person may sell, offer for sale, barter or give away living chicks, ducklings or other fowl without providing proper brooder facilities for the care of such chicks, ducklings or other fowl during the time they are in such person's care, custody or control.

(c) No retailer, as section in Wis. Stats. § 100.30(2)(e), may sell, offer for sale, barter or give away living baby rabbits, baby chicks, ducklings or other fowl under two months of age, in any quantity of less than six, unless the purpose of selling such animals is for agricultural, wildlife or scientific purposes.

(Ord. No. 01-2003, § 7-1-14, 1-14-2003)

**State Law References:** Similar provisions, Wis. Stats. §§ 951.10 and 961.11.

#### **Sec. 10-15. Provision of proper food and drink to confined animals.**

No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as follows:

- (1) The food shall be sufficient to maintain all animals in good health.
- (2) If potable water is not accessible to the animals at all times, it shall be provided daily and in a sufficient quantity for the health of the animal.

(Ord. No. 01-2003, § 7-1-15, 1-14-2003)

**State Law References:** Similar provisions, Wis. Stats. § 951.13.

#### **Sec. 10-16. Provision of proper shelter.**

(a) *Required.* No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this section. In the case

of farm animals, nothing in this section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry.

- (b) *Indoor standards.* Minimum indoor shelter standards shall include the following:
  - (1) *Ambient temperatures.* The ambient temperature shall be compatible with the health of the animal.
  - (2) *Ventilation.* Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) *Outdoor standards.* Minimum outdoor shelter standards shall include the following:
  - (1) *Shelter from sunlight.* When sunlight is likely to cause heat exhaustion of an animal, sufficient shade, by natural or artificial means, shall be provided to protect the animal from direct sunlight.
  - (2) *Shelter from inclement weather.*
    - a. *Animals generally.* Natural or artificial shelter, appropriate to the local climatic conditions for the species concerned, shall be provided, as necessary, for the health of the animal.
    - b. *Dogs.* If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) *Space standards.* Minimum space requirements for both indoor and outdoor enclosures for animals other than dogs shall include:
  - (1) *Structural strength.* The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.
  - (2) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
- (e) *Sanitation standards.* Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta, other waste materials, dirt and trash so as to minimize health hazards.

(f) *Specific housing requirements for dogs.* The minimum requirements for a dog house shall be as follows:

- (1) The floor shall rest on an enclosed base, four inches in height.
- (2) The height of the dog house shall be at least four inches above the height of the occupant dog.
- (3) The length and width of the dog house shall be of such dimensions that the occupant dog can lie flat on its side on the floor.
- (4) The dog house shall have a tight board floor.
- (5) The roof and sides of the dog house shall be constructed so as to be waterproof and windproof.
- (6) A baffle shall be placed over the door in inclement weather. A baffle shall consist of some material or structure that will protect the occupant dog from direct exposure to the elements of weather.
- (7) The whole floor shall be bedded with hay or straw to a thickness of at least six inches.
- (8) The dog house run shall be located at least 15 feet from the owner's lot line.
- (9) Shade from the direct rays of the sun in the months of June--September, inclusive, shall be provided in the area of the dog house.
- (10) The area around the dog house shall be reasonably dry, without standing water or mud, and shall be kept reasonably clean.
- (11) The minimum outdoor dog run enclosure size shall be four feet by six feet, and shall be of a height and strength sufficient to contain the dog.
- (12) The minimum allowable tie out length is 15 feet.

(g) *Coop maintenance.* No person shall maintain or operate a coop unless the coop is established at least 25 feet from the nearest inhabited dwelling, exclusive of the dwelling of the person operating such coop. Coops existing on the effective date of the ordinance from which this section is derived, which are not located and operated at least 25 feet from any such dwelling, may remain in existence, but shall not be improved or extended in violation of this section. Every coop shall be operated and maintained in a clean and sanitary condition so as not to endanger the health, comfort, safety and welfare of the public. (See section 90-371(c)(7)c.) (Ord. No. 01-2003, § 7-1-16, 1-14-2003)

**State Law References:** Similar provisions, Wis. Stats. § 948.14.

## **Sec. 10-17. Neglected, abandoned and injured animals.**

### **(a) *Neglected and abandoned animals.***

- (1) No person may abandon any animal.
- (2) Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner, and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases, the owner, if known, shall be immediately notified and such officer, or other person having possession of the animal, shall have a lien thereon for the animal's care, keeping and medical attention and the expense of the notice.
- (3) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within seven days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
- (4) Whenever, in the opinion of any such officer, an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill the animal and the owner thereof shall not recover damages for the killing of such animal unless he shall prove that such killing was unwarranted.
- (5) Wis. Stats. § 948.17 is hereby adopted by reference and made a part of this section.

(b) *Injured animals.* No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. If the owner of such animal cannot be located, the village or any animal control agency with which the village has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.

(Ord. No. 01-2003, § 7-1-17, 1-14-2003)

**State Law References:** Similar provisions, Wis. Stats. §§ 948.15, 948.16 and 948.17.

## **Sec. 10-18. Cruelty to animals and birds.**

(a) *Birds' nests and eggs.* No person, except a police officer, health officer or humane officer in the pursuit of their duties, shall, within the village, shoot or kill, or commit an act of cruelty to an animal or bird or disturb any bird's nest or bird's eggs.

(b) *Leading animal from motor vehicle.* No person shall lead any animal upon a village street from a motorized vehicle or a trailer or semitrailer drawn by a motorized vehicle.

(c) *Use of poisonous and controlled substances.* No person may expose any pet owned by another person to any known poisonous substance or controlled substance listed in Wis. Stats. § 161.14, whether or not it is mixed with meat or other food, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This subsection shall not apply to poison used on a person's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.

(d) *Use of certain devices prohibited.* No person may, directly or indirectly, or by aiding, abetting or permitting the doing thereof, either put, place, fasten, use or fix upon, or to, any animal used or readied for use for a work purpose, or for use in an exhibition, competition, rodeo, circus or other performance, any bristle bur, tack bur or similar device, or a poling device used to train a horse to jump which is charged with electricity or to which nails, tacks or other sharp points have been affixed.

(e) *Shooting at caged or staked animals.* No person may instigate, promote, aid or abet, as a principal, agent, employee, participant or spectator, or participate in the earnings from, or intentionally maintain or allow any place to be used for, the shooting, killing or wounding with a firearm or any deadly weapon of any animal that is tied, staked out, caged or otherwise intentionally confined in a manmade enclosure, regardless of size.

(f) *Fighting of animals.* No person shall:

- (1) Own, possess, keep or train any animal with the intent that such animal shall be engaged in an exhibition of fighting.
- (2) Build, make, maintain or keep a pit or enclosure on any premises owned or occupied by him, or allow a pit or enclosure to be built, made, maintained or kept on such premises for the purpose of an exhibition of animal fighting.
- (3) Exercise an animal with weights for the purpose of fighting, including, but not limited to, heavy items strapped to the animal's chest or neck.
- (4) In any manner encourage, instigate, promote or assist in an exhibition of animal fighting or intentional combat.
- (5) Charge admission, be an assistant, umpire or participant, or be present as a spectator to any exhibition of animal fighting or combat.

(g) *Impoundment.* Any animal control officer or other officer empowered to act by law may impound any animal found to be cruelly treated.  
(Ord. No. 01-2003, § 7-1-18, 1-14-2003)

#### **Sec. 10-19. Trapping animals.**

(a) In the interest of public health and safety, it shall be unlawful for any person within the village to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box type traps only. For the purposes of this subsection, the term "live box type traps" means traps which capture and hold an animal in an alive and unharmed condition. Any person requiring deviations from this section must receive written approval from the village board.

(b) All such traps set, placed or tended on village-owned land shall comply with Wis. Stats. ch. 29, as such chapter relates to trapping.

(c) Nothing in this section shall prohibit or hinder the village or its employees or agents from performing their official duties.  
(Ord. No. 01-2003, § 7-1-19, 1-14-2003)

#### **Sec. 10-20. Animalnapping.**

No person may take an animal of another person from one place to another without the owner's consent, or cause such animal to be confined or carried out of the village or held for any purpose without the owner's consent. This section does not apply to law enforcement officers or humane society agents engaged in the exercise of their official duties, or as otherwise permitted in this chapter.  
(Ord. No. 01-2003, § 7-1-20, 1-14-2003)

#### **Sec. 10-21. Vehicle accidents.**

The operator of any vehicle involved in an accident resulting in injury to, or death of, a domestic animal which appears to be a pet shall immediately notify the police department or an animal control agency the jurisdiction of which extends into the village.  
(Ord. No. 01-2003, § 7-1-21, 1-14-2003)

#### **Sec. 10-22. Sale or display of certain birds in food establishments.**

No person shall sell or display birds of the Psittacine family in any store selling, giving away or preparing food or drink for human consumption unless the birds are enclosed so as to prevent any possible contamination of the food or drink.  
(Ord. No. 01-2003, § 7-1-22, 1-14-2003)

#### **Sec. 10-23. Keeping bees.**

(a) It shall be unlawful for any person to establish or maintain any hive, stand or box where bees are kept or keep any bees in or upon any premises zoned residential within the limits of the village unless the bees are kept in accordance with the following provisions:

- (1) No hive, stand or box where bees are kept shall be located closer than 20 feet to any property boundary. Such hives, stands or boxes may only be located in the rear yard.
- (2) If bee colonies are kept within 50 feet of any exterior boundary of the property on which the hive, stand or box is located, a barrier that will prevent bees from flying through it, no less than six feet high, shall be installed and maintained along the exterior boundary. Such barrier may be either a natural or artificial planting.
- (3) Watering facilities for bees shall be provided on the premises.
- (4) The bees and equipment shall be kept in accordance with the provisions of statute.

(b) Nothing in this section shall be deemed or construed to prohibit the keeping of bees in a hive, stand or box located within a school or university building for the purpose of study or observation.

(c) No person shall keep, establish or maintain any hive, stand or box where bees are kept without first obtaining a permit from the health department. A brief and simple plan, including a diagram describing the location of the hive, stand or box in relationship to lot boundaries and the barrier, shall be submitted to the health department prior to the issuance of a permit. No fee shall be charged for such permit.

(d) The health department may deny or revoke a permit under this section if, based on the plan submitted or a verified complaint signed by two or more witnesses residing in different households, it is determined that the beehive creates a nuisance. A person whose permit is denied or revoked under this section shall have the right to appeal the health department's denial or revocation to the board of health.

(Ord. No. 01-2003, § 7-1-23, 1-14-2003)

#### **Sec. 10-24. Care of livestock.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Horses* includes donkeys, mules and ponies.

(b) *Stable maintenance.* No person shall maintain or operate a stable unless the stable shall be established at least 200 feet from the nearest inhabited dwelling, exclusive of the dwelling of the person operating such stable. Stables existing on the effective date of the ordinance from which this section is derived, which are not located and operated at least 200 feet from any such dwelling, may remain in existence, but shall not be improved or extended in violation of the provisions of this section. Every stable shall be operated and maintained in a

clean and sanitary condition so as not to endanger the health, comfort, safety and welfare of the public. No horse, cow, pig, sheep, goat or other small animal or bird shall be kept and maintained other than in a stable which conforms to the requirements of this section. (See sections 90-90-311(d) and 90-371(c)(7).)

(c) *Responsibility.* The owner of a horse shall be responsible, at all times, for the care and welfare of such animal.

(d) *Shelters in pastures.* All horses kept in pastures without access to barn facilities during the months of October--April, inclusive, shall have access to a shelter which shall consist of at least three walls and a roof. The shelter shall be of such size and type of construction as will permit all horses in such pasture to be completely underneath its roof and protected from direct exposure to weather.

(e) *Barns.* The stalls wherein horses are kept shall be cleaned at least once a day. An adequate supply of bedding straw or comparable material shall be kept in the stalls at all times.

(f) *Food and water.* Proper feed of an adequate amount and adequate water shall be provided to the horses at all times. When the usual water supply becomes frozen, water shall be provided to horses twice a day in such amounts as will permit such animals to drink their fill.

(g) *Defects.* Any horse adjudged by a law enforcement officer of the village, health officer or animal control officer to be sick, lame or injured shall not be used for work or recreation.

(h) *Shoeing.* A horse ridden on the road or any hard surface must be shod.  
(Ord. No. 01-2003, § 7-1-24, 1-14-2003)

## **Sec. 10-25. Number of dogs and cat.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Family* means one or more persons.

*Residential lot* means a parcel of land zoned as residential, which is intended to be occupied by a dwelling.

(b) *Limitation.* No family shall own, harbor or keep in their possession more than three dogs or cats, or any combination thereof, on any lot, except that a litter of puppies or kittens, or a portion thereof, may be kept for not more than ten weeks from birth unless such family has been issued, and are in compliance with, a kennel license, as provided in section 10-3(b). If more than one family resides on a residential lot, then only a total of three dogs or cats, or any combination thereof, shall be allowed on a residential lot unless prior approval is obtained from the village.

(c) *Transient dogs and cats.* Any dog or cat shipped or transported through the village or entering the village only for the purpose of a temporary stay, when such stay shall not exceed 30 days, shall be exempt from the license fees and collars and tag requirements of this chapter; however, all other provisions of this chapter are applicable to such transient animals. (Ord. No. 01-2003, § 7-1-25, 1-14-2003)

#### **Sec. 10-26. Slaughterhouses.**

(a) *License required.* No person shall construct, operate or maintain a slaughterhouse in the village without first obtaining a license from the state department of agriculture under Wis. Stats. § 97.42(2).

(b) *Location.* No person shall construct, operate or maintain a slaughterhouse in the village within one mile of any residence or other structure used for dwelling purposes. (See sections 90-671 and 90-691.) (Ord. No. 01-2003, § 7-1-26, 1-14-2003)

#### **Sec. 10-27. Violations; penalties.**

(a) The following fee structure shall apply to violations of this chapter:

Section Number	First Offense	Subsequent Offense	Injunction?
10-1	Not applicable	Not applicable	Not applicable
10-2	\$ 25.00--\$ 200.00	\$100.00--\$400.00	No
10-3	25.00--200.00	100.00--400.00	No
10-4	Not applicable	Not applicable	Not applicable
10-5	50.00--200.00		Yes
10-6	25.00--100.00	50.00--200.00	No
10-7	25.00--100.00	50.00--200.00	No
10-8	25.00--100.00	50.00--200.00	No
10-9	25.00--100.00	50.00--200.00	No
10-10	25.00--100.00	50.00--200.00	No
10-11	25.00--100.00	50.00--200.00	No
10-12	25.00--100.00	50.00--200.00	No
10-13	25.00--100.00	50.00--200.00	No
10-14	25.00--100.00	50.00--200.00	No
10-15	50.00--200.00		Yes
10-16	50.00--200.00		Yes
10-17	50.00--200.00		Yes
10-18	500.00--2,000.00		Yes
10-19	50.00--200.00		Yes
10-20	500.00--1,000.00		Yes
10-21	50.00--200.00		No
10-22	50.00--200.00		Yes
10-23	50.00--200.00		Yes
10-24	50.00--200.00		Yes
10-25	25.00--100.00	50.00--200.00	No
10-26	50.00--200.00		Yes

(b) In addition to the fee structure set forth in subsection (a) of this section for violations of this chapter, zoning ordinance penalties may apply. (See section 90-10, as amended on July 9, 1985).  
(Ord. No. 01-2003, § 7-1-27, 1-14-2003)

**Chapters 11--13**

**RESERVED**

## Chapter 14

### BUILDINGS AND BUILDING REGULATIONS\*

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\* **Cross References:** Health and sanitation, ch. 38; razing buildings, § 46-361 et seq.; mobile homes, ch. 50; solid waste, ch. 66; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74; utilities, ch. 82; zoning, ch. 90.

**State Law References:** Well construction and pump installation, Wis. Admin Code § NR 812.01 et seq.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 14-1.	Purpose.		
Sec. 14-2.	Uniform Dwelling code adopted.		
Sec. 14-3.	Street openings.		
Sec. 14-4.	Interference with drainage.		
Sec. 14-5.	Foundation survey requirements.		
Sec. 14-6.	Swimming pools.		
Sec. 14-7.	Filling of lands.		
Sec. 14-8.	Violations; penalties.		
Secs. 14-9 – 14-40.	Reserved.		
<b>Article II. Electricians</b>			
Sec. 14-41.	Generally.		
Sec. 14-42 – 14-70.	Reserved.		
<b>Article III. Plumbing</b>			
Sec. 14-71.	Adoption of state plumbing code.		
Sec. 14-72.	Plumbing supervisor.		
Sec. 14-73.	Permits.		
Sec. 14-74.	Fees.		
Sec. 14-75.	House sewer inspections; tees; backfilling.		
Sec. 14-76.	Notice for final inspection; certificate of inspection.		
Sec. 14-77.	Bond and insurance.		
Sec. 14-78.	Additional regulations and requisites.		
Sec. 14-79.	Report of existing unsanitary conditions.		
Sec. 14-80.	Holding tanks.		
Sec. 14-81.	Cross connections.		
Sec. 14-82 – 14-110.	Reserved.		
<b>Article IV. Moving Buildings</b>			
Sec. 14-111.	Generally.		
Secs. 14-112 - 14-140.	Reserved.		

### **Article V. Building Numbering**

- Sec. 14-141. Uniform system of numbering houses and buildings.  
Sec. 14-142 – 14-170. Reserved.

### **Article VI. Wells**

- Sec. 14-171. Generally.

**ARTICLE I.**  
**IN GENERAL**

**Sec. 14-1. Purpose.**

The purpose of this chapter is to provide certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and structures erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished, and to regulate the equipment, maintenance, use and occupancy of all buildings and structures.

(Code 1993, § 14.02)

**Sec. 14-2. Uniform Dwelling code adopted.**

(a) The following Wis. Admin. Code chs. Comm. 20--25, Uniform Dwelling Code, as amended and effective April 10, 1981, and all amendments thereto, are adopted and incorporated by reference in this section and made a part of this chapter as though fully set forth in this section:

Comm. 20	Administration and Enforcement
Comm. 21	Construction Standards
Comm. 22	Energy Conservation
Comm. 23	Heating, Ventilating and Air Conditioning Standards
Comm. 24	Electrical Standards
Comm. 25	Plumbing and Potable Water Standards

(b) The building inspector and his delegated representatives are authorized and directed to administer and enforce all of the provisions of the Uniform Dwelling Code.

(c) At the time application for a building permit is made, the building inspector shall collect the state fee required under the Uniform Dwelling Code, and an additional fee as set by the village board shall be charged by the village for plan examination and additional costs incurred by the village in administering the state code provisions.

(Code 1993, § 14.03)

**Sec. 14-3. Street openings.**

All street openings shall be in compliance with the terms of section 70-1.

(Code 1993, § 15.09)

#### **Sec. 14-4. Interference with drainage.**

The damming, filling, relocating or otherwise interfering with the natural flow of surface water in a natural drainage course, the intended flow of surface water in an approved subdivision or the existing flow between other properties shall not be permitted, except with the approval of the village, county and state agencies having jurisdiction.  
(Code 1993, § 14.05)

#### **Sec. 14-5. Foundation survey requirements.**

(a) *Submission; comparisons.*

- (1) Any person erecting, moving, enlarging or reconstructing a habitable structure which requires a zoning permit, shall, upon completion of construction of the footings, concrete slab or other foundations, submit to the building inspector a survey prepared by a registered land surveyor, showing the locations, boundaries, dimensions, elevations and sizes of the boundaries of the lot and all existing structures, including foundations, and their relationship to the lot lines.
- (2) The building inspector shall compare the location of all new or extended foundations, including adjacent properties, with the location of all proposed construction activity reported on the permit application. No further construction shall commence unless the building inspector finds and certifies that the foundation location is consistent with the approved drainage/grading plan.

(b) *Assumption of liability.*

- (1) At the option of the permit applicant, the foundation survey requirements may be waived for any construction, if the permit applicant files and records with the building inspector and county register of deeds an assumption of liability, which shall be binding on the permit applicant and his estate and shall forewarn future owners of the parcel of the lack of a certified foundation survey verifying that structures located on the parcel are in conformity with this section and, if an error is made on the placement of any construction or structure or a zoning violation is later discovered, the applicant and his estate shall move the construction or structure or, if a zoning violation is later discovered, the applicant and his estate shall move the construction or structure so as to conform with the zoning regulations effective on the date the permit was issued and shall pay all consequent damages.
- (2) Structures illegally located on a parcel are in violation of the village zoning ordinance (chapter 90 of this Code). The applicable statute of limitations for prosecution of such violations shall not begin until such

time as a certified survey has been filed with the building inspector and the register of deeds indicating the location of the structures on the parcel.  
(Code 1993, § 14.10)

#### **Sec. 14-6. Swimming pools.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Child of tender years* means any child who has not attained the age of eight years.

*Swimming pool* means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent, and either above or below the ground, in which water of more than 18 inches in depth is contained, and which is used primarily for the purpose of bathing or swimming, except temporary pools with an area of 150 square feet or less shall not come within the provisions of this section.

(b) *Private swimming pools.* No swimming pool shall be erected in the front of the residence of the owner or occupant of the premises connected therewith. In the case of lots bordered on two sides by public streets, no swimming pool may be erected in the area between the setback lines of the main building and the street right-of-way line and, in no case, less than five feet from any lot line or building wall.

(c) *Safety guidelines.* Every person who owns, directly or indirectly, or operates, uses or has custody or control of, or the right to use any swimming pool located in the village, shall erect the swimming pool in a manner so as to prevent a child of tender years from falling into such swimming pool. Such erection will be accomplished by constructing the swimming pool to meet the following safety guidelines:

(1) *Aboveground swimming pools.*

- a. Aboveground swimming pool walls shall be a minimum of 42 inches in height along all sides of the swimming pool, when measured from the outer pool wall top to the ground level. All such swimming pools shall have a removable ladder. When the 42-inch minimum height is not met, a fence with a total height of 48 inches must be erected no closer than six feet from the closest vertical swimming pool wall.
- b. Swimming pool fences shall completely enclose the swimming pool and be constructed so as to not allow the passage of a six-inch sphere between the spindles.
- c. If a fence is to be attached to the top of the swimming pool, the fence shall extend the overall height of the swimming pool and

fence combination to be no less than four feet, nor greater than six feet in height. The distance between the top of the swimming pool and bottom of the fence shall be no greater than three inches. The distance between spindles shall not exceed six inches on center. Any door, gate or other opening in the fence shall be locked at all times when the swimming pool is not in use, and shall have its hinges located in order that it may swing open only from the inside out.

- d. An aboveground swimming pool shall be located no closer than eight feet from the side lot line and no closer than ten feet from the rear lot line.

(2) *Inground swimming pools.*

- a. All inground swimming pools shall be fully enclosed by an approved fence of at least 42 inches in height.
- b. All gates which provide access to the swimming pool area shall be self-closing and self-latching, with the latch mechanisms positioned so that they are not readily accessible by young children.
- c. An inground swimming pool shall be located no closer than eight feet from the side lot line, and no closer than ten feet from the rear lot line.

(d) *Draining.* No private swimming pool shall be constructed so as to allow water from the swimming pool to drain into any sanitary sewer or septic tank, nor to overflow upon, or cause damage to, any adjoining property. Provision may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval of the plumbing and health inspector. In all cases where a private swimming pool is to be constructed on premises served by a private sewage disposal system, approval of the state department of health shall be necessary before the construction of any such swimming pool may commence.

(e) *Filtration.* All private swimming pools, within the meaning of this section, shall have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

(f) *Finish.* All swimming pools of a permanent type shall have the sides and bottom of a smooth finish and no sand or dirt bottom shall be permitted.  
(Code 1993, § 14.04)

**Sec. 14-7. Filling of lands.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Fill* means the normal and usual soil resulting from excavating or grading of land, but shall not include building materials, refuse or any other manufactured articles of any kind, the use of which, as fill, is prohibited.

(b) *Permit required.* Whenever any party desires to deposit fill in any amount, except any fill used for topsoil dressing on any lands in the village, such party shall first obtain a fill permit from the building inspector. A permit shall not be required for fill deposited at a licensed landfill site or for any lands for which a valid building permit has been issued. For the purposes of this subsection, the term "topsoil dressing" means hand application of topsoil to existing turf.

(c) *Permit applications.* The building inspector shall provide application forms for fill permits, which shall contain the following information:

- (1) Name and address of the applicant.
- (2) Place where fill is to be deposited and the owner thereof.
- (3) Existing and proposed elevation of the area to be filled, at a distance of not more than 25-foot intervals.
- (4) Existing elevation of adjacent lands within 50 feet of the land to be filled, at distance of not more than 25-foot intervals.
- (5) A sketch showing the information set forth in subsections (c)(1)--(4) of this section, and the route to be traveled to the fill site.
- (6) Approximate quantity of fill.
- (7) Time required for filling.
- (8) Party responsible for leveling, seeding or sodding.
- (9) Method for erosion control during filling.

(d) *Refusal to issue permit.* If the building inspector is satisfied that issuance of a fill permit is not in the best interests of the owners of adjacent lands or the village, he shall refuse to issue such fill permit.

(e) *Fee.* Before issuance of the fill permit, the building inspector shall collect the fee set from time to time by resolution of the village board, and shall deliver such fee to the clerk-treasurer. Failure to obtain a fill permit shall result in the imposition of double fees. Such permit shall be posted on the site where the fill is to be deposited so as to be visible from the public roadway.

(f) *Leveling.* All fill deposited pursuant to a fill permit shall be leveled within 30 days of the last deposit.

(g) *Violations.* No person shall deposit any fill in the village without a valid fill permit. In case of any violation of this section, the building inspector, village board, village attorney, police officers or any neighboring property owner who would be damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this section. (Code 1993, § 14.06)

#### **Sec. 14-8. Violations; penalties.**

Except as otherwise provided, any person found to be in violation of any provision of this chapter, or any rule or regulation promulgated under this chapter, shall be subject to a penalty as provided in section 1-15.  
(Code 1993, §§ 14.15, 15.15)

#### **Secs. 14-9--14-40. Reserved.**

## **ARTICLE II.**

### **ELECTRICIANS**

#### **Sec. 14-41. Generally.**

(a) *Permit required.* Any individual or organization who wishes to perform electrical work in the village must first obtain a permit. A permit may be obtained after a registration form has been completed, indicating the applicant's training, background and experience in electrical work, and payment of a fee as set by the village board. The registration form shall be provided by the clerk-treasurer. Permits will only be issued to electricians who are on the village's registration list. A statement requesting continued registration must be filed annually.

(b) *Exceptions.* Any person who performs electrical work in a single-family residence owned and occupied for at least six months by such person and does not regularly employ any person to perform electrical work upon such premises shall not be required, under this section, to have a license for such work, but shall obtain a permit as required in subsection (a) of this section. Such person shall file with the electrical inspector an affidavit that such work will conform to the state electrical code and this section, and that he shall fully comply with all other provisions of this section. Any person constructing a new home in which he intends to reside shall be allowed to perform all necessary electrical work without having a license, but shall be subject to all the other provisions of this section.

(c) *Minimum requirements* An individual or organization must meet and attest to the following standards:

- (1) Six years practical work experience.

(2) A thorough knowledge of electrical codes.

(d) *Unsatisfactory inspections.* An electrician may be removed from the village's registration list upon a finding of unsatisfactory work by the electrical inspector.

(1) Upon the first unsatisfactory inspection, the electrical inspector shall issue a written warning to the individual or organization whose electrical work is in question.

(2) Upon the second unsatisfactory inspection, the electrician's permit shall be suspended up to 30 days, as determined by the electrical inspector.

(3) Upon the third unsatisfactory inspection, the individual or organization shall be removed from the village's registration list.

(e) *Appeal procedure.* Any individual or organization removed from the village's registration list may appeal the removal in writing to the village board within 30 days of notification of the removal.

(f) *Liability.* This section shall not be construed to relieve from or lessen the responsibility or liability of any person supplying electricity to, or selling, renting, leasing, owning, using, operating, controlling, installing, altering, repairing, removing, replacing, disturbing, connecting, disconnecting or maintaining, any electrical wiring, device or equipment for damages to persons or property caused by any defect therein or therefrom, nor shall the village be held as assuming any such responsibility or liability by reason of the issuance or revocation of any license, permit or certificate, or the inspection or reinspection authorized by this section, or by reason of the approval or disapproval of any electrical equipment, sales, rentals, drawings, plans, specifications, materials, samples, test reports, literature, information or schedules authorized in this section, nor shall the village be held liable for any damage resulting from the enforcement of this section.

(g) *Panelboard covers.* The panelboard cover on all rewiring or new electric service work shall be left off for the electrical inspector and installed after the electrical inspector's approval.

(Code 1993, §§ 12.01(18), 12.18)

**Secs. 14-42--14-70. Reserved.**

## ARTICLE III.

### PLUMBING

#### **Sec. 14-71. Adoption of state plumbing code.**

The provisions of the plumbing code issued by the state department of commerce, and all amendments and additions, in effect at any specified time, are incorporated in this section by reference, with the same force and effect as though set forth in this section. The provisions of such code and this article shall govern all plumbing as therein defined, and no plumbing shall be installed, except in accordance with such code and this article.

(Code 1993, § 15.01)

#### **Sec. 14-72. Plumbing supervisor.**

(a) *Office authorized.* In order to enforce the provisions of this article, the office of the plumbing supervisor is authorized in accordance with Wis. Stats. § 145.05. The plumbing supervisor shall, under the direction of the village board, have control of the inspection of plumbing, water supply and drainage installation from street mains, curbs or other terminals and installations inside, and in connection with, any building as set forth in this article.

(b) *Qualifications.* The plumbing supervisor shall be a practical plumber, skilled sanitarian or a competent person familiar with plumbing. He shall not be interested, directly or indirectly, in the plumbing or drainlaying business, and shall devote his full time to the duties of his office.

(c) *Appointment, term of office and salary.* The plumbing supervisor shall be appointed by the village board for a term of one year, or until his successor shall be duly appointed and qualified, and at such compensation as shall be established by the village board.

(d) *Removal from office.* The plumbing supervisor shall hold office during his term, except that the village board may, at any time, remove him from office for insufficiency, neglect of duties or malfeasance in office.

(e) *Deputy plumbing supervisors and assistants.* The village board may, from time to time, for such length of time as it deems advisable, employ one or more deputy plumbing supervisors and such other assistants for the plumbing supervisor as it may deem necessary, and may discharge any of such deputies or assistants at will, and pay them such compensation as shall be established by the village board. During the absence or inability to act of the plumbing supervisor, the village board may appoint any deputy plumbing supervisor as acting plumbing supervisor.

(f) *Requirements, authorities and duties.* The village board may require any or all plumbing supervisors, deputy plumbing supervisors and assistants to furnish bonds in such amounts, for the faithful performance of their duties as it deems advisable. The plumbing supervisor, under the direction of the village board, is authorized and empowered to exercise

such supervision over all plumbing installations as may be necessary to enforce the provisions of this article, state law and the state plumbing code, and to make all plumbing safe and sanitary and to promote public welfare in all classes of buildings, private and public. He shall have the right to enter any building during reasonable hours in the discharge of his official duties, and he shall prepare suitable forms for the applications and permits required and keep copies for reference. He shall file a monthly and yearly report with the village board. Defects revealed during inspections shall be set forth in detail, in writing, and a copy thereof shall be given to the permit holder. He shall be under the direct supervision of the village board and shall enforce all of the provisions of this article. The plumbing supervisor is authorized to withhold approval of an application for a plumbing permit to any person who has not complied with a lawful order of the plumbing supervisor. The person refused such a permit may appeal to the village board within ten days.  
(Code 1993, § 15.02)

### **Sec. 14-73. Permits.**

(a) No person shall do any plumbing until a permit for such plumbing has been taken out with the plumbing supervisor. Before a permit to install plumbing may be issued, a plot plan of the premises upon which the plumbing is to be installed shall have been approved by the building inspector and the plumbing supervisor. The plot plan shall include the:

- (1) Size of the building and its location on the lot.
- (2) Size and location of the proposed system of private sewage disposal.
- (3) Location, in feet, of all water wells not on the lot, but within 45 feet of the lot.
- (4) Location of the water well on the lot.
- (5) Location, in feet, of any system of private sewage disposal that is less than 20 feet from the lot.
- (6) Slope of the land surface of the lot, in feet, per 100 feet, or the percent of slope.
- (7) Location of all percolation test holes and the data of the test of each hole. The data shall include the rate, in minutes, for the water to fall one inch, plus any data from borings, if needed.

(b) The application forms for permits shall be furnished by the plumbing inspector. Such forms shall contain an accurate description of the property, the name of the street to be opened and between what streets, and all purposes for which the plumbing is to be used. No permit shall be deemed to authorize anything not stated in the application. The applications shall be signed by either the owner or his authorized agent and, where the work is not to be performed by the owner in person, by the person who is to perform the work.

(c) A plan shall be submitted with the application for a permit, which shall include a clear description of the plumbing.

(d) All plans shall be approved or rejected within five days of the time the plans are submitted to the plumbing supervisor.

(e) No permit shall be issued unless the plans are approved and the application is properly made out. No permit shall be issued unless the lot on which a system or private sewage disposal is to be installed is large enough to install such a system in full compliance with the Wisconsin Administrative Code; provided, however, that this restriction shall not apply to plumbing to be installed in a building in existence on the effective date of the ordinance from which this section is derived.

(f) A permit shall become void if the plumbing work shall not have been commenced within three months of the date of the permit and may be voided at the request of the permit holder.

(g) Sewer permits issued by the village shall be in effect for installation on normal working days only. Saturdays, Sundays and all holidays approved by the village board are excluded.

(Code 1993, § 15.03)

#### **Sec. 14-74. Fees.**

(a) Before a permit is granted under section 14-73, the applicant shall pay to the plumbing supervisor the permit fee prescribed from time to time by resolution of the village board.

(b) If a building is occupied before a final inspection is made, an additional fee as set by the village board shall be paid by the permit holder. If any plumbing work is done prior to the issuance of a permit, the permit fee shall be double the amount that would otherwise be payable under this section.

(c) All money received for permits under this article shall be paid weekly to the clerk-treasurer and placed by him in a separate fund, and shall be used only for payment of operation and maintenance expenses, depreciation or bond redemption of the village sanitary sewerage system.

(Code 1993, § 15.04)

#### **Sec. 14-75. House sewer inspections; tees; backfilling.**

(a) The plumbing supervisor shall be notified whenever any house sewer work from main-to-curb-to-building is ready for inspection, and all work, except when otherwise permitted by the plumbing supervisor, shall be left uncovered until it has been examined and approved. All such notifications shall specify the correct location of the premises and the permit number of the job.

(b) All house sewers shall have a tee for test purposes installed as close as practicable to the main sewer, or to the lateral if the lateral is already installed.

(c) The first two feet of backfilling shall be done in a careful manner so as not to break any joints.  
(Code 1993, § 15.05)

**Sec. 14-76. Notice for final inspection; certificate of inspection.**

Notice for final inspection of the plumbing installation, after the fixtures, appurtenances and appliances have been tested and completed, and after the installation is considered ready for use, shall be given by the person to whom the permit was issued within 48 hours of such completion. The final inspection shall be made with the water supply serving the plumbing system turned on for such test purposes. The plumbing supervisor shall furnish a certificate of inspection to the person to whom the permit was issued.  
(Code 1993, § 15.06)

**Sec. 14-77. Bond and insurance.**

(a) Before a permit is granted under section 14-73, the applicant shall execute to the village, and have on file with the plumbing supervisor, a bond of undertaking, to be approved by the president. Such bond shall be:

- (1) In the sum of \$2,000.00, conditioned to save and keep the village harmless from all damages to, and losses of, property of the village, and expenses arising therefrom, which may be incurred by the village by reason of such plumbing or drainlaying by the applicant or his contractors, servants, agents or employees.
- (2) In the sum of \$50,000.00, conditioned to save and keep the village harmless from all liability arising by reason of the plumbing and drainlaying, and to indemnify the village against any and all such judgments, claims, costs and expenses on account of bodily injury to, or death of, third persons.
- (3) In the sum of \$10,000.00, conditioned to save and keep the village harmless from all liability arising by reason of the plumbing or drainlaying, and to indemnify the village against any and all such judgments, claims, costs and expenses by reason of damage to property other than that of the village.

(b) Before a permit is granted under section 14-73, the applicant shall cause to be issued, in his name, a policy of liability insurance, in the form and by an insurance corporation to be approved by the president, by the terms of which policy the insurance corporation shall assume the liability and obligations of the applicant under the bond, which policy shall further provide, by its specific terms, that it may not be cancelled or otherwise terminated without at

least ten days' prior notice to the president and plumbing supervisor. The applicant shall file a certificate of insurance with the plumbing supervisor in accordance with the provisions of this section.

(Code 1993, § 15.07)

**Sec. 14-78. Additional regulations and requisites.**

(a) Wis. Admin. Code ch. Comm. 85 is hereby made a part of this article by reference, except § 85.06, which is revised to read as follows: "Soil borings and percolation tests shall be made by or under the direction and control of an engineer, architect, surveyor or sanitarian registered in Wisconsin, or master plumber or master plumber restricted licensed in Wisconsin and approved by the village board, to install private sewage disposal systems. The approved person supervising the tests shall certify as to the correctness of the procedure and results. Blank forms supplied by the division shall be used for reporting results and providing certification. The provisions of this section shall be enforced by the plumbing supervisor."

(b) House sewers are made a part of this article.

- (1) A bed of a six-inch depth of stone chips that will pass a one-half-inch sieve shall be installed so that three inches is under the pipe and three inches along side of the pipe the entire width of the ditch.
- (2) The minimum size of any waste or vent pipe in the ground or under the basement or ground floor shall be three inches in diameter, except that basement or ground floor fixtures may be two inches in diameter, not to exceed 20 feet in length.
- (3) In addition to the septic tank manhole, a four-inch diameter cleanout shall be installed directly over the center of the inlet baffle and extended to grade. The cleanout shall be of the same material and design as the house sewer cleanout.
- (4) A septic tank shall be a minimum of five feet from any building. Septic tanks shall be no less than ten feet from any basement wall. The minimum liquid capacity shall be 750 gallons for any installation, and shall be of a one-piece design and watertight structure from the bottom of the tank to a point above the inlet and outlet baffles of such tank.
- (5) All household waste shall be piped to the septic tank, including all floor drainage.
- (6) Percolation tests are to be made as specified in Wis. Admin. Code § Comm 85.06(4). The bottom area shall be based upon results of such tests.

- (7) All sumps installed for the purpose of discharging clear water drains shall discharge in the opposite direction of private disposal systems. The discharge pipe shall be no less than 1 1/4-inch diameter.
- (8) All clear water sumps shall be located as far as possible or practicable from any sanitary drain opening. A minimum distance of 15 feet shall be kept in all installations unless otherwise approved by the plumbing supervisor.
- (9) All water pumps shall be installed in compliance with the state well construction and pump installation code and any future amendments. The codes are made a part of this section by reference.
- (10) A sanitary sewer lateral must be water tested before it can be connected to an existing line. If the existing line is found to be unsatisfactory, it must either be remedied before approval or the new sanitary lateral must be brought into the building below the basement floor level.
- (11) No permits for house sewer installations shall be issued until the roof is on the building, the house drain has been installed and approved, and the basement floor is finished.
- (12) All ditches must be pumped completely dry during the entire period of construction and be kept clean of loose material. In no case shall the trench, surface or foundation water be allowed to drain through the lateral or sewer main. All ditches shall be properly braced.
- (13) Where practical, and unless otherwise approved, the lateral shall be connected to the existing wye. Where no wye is available, the village shall tap and install an adaptor on the sewer main, under the supervision of the plumbing inspector.
- (14) All buildings must be provided with a sump and sump pump to collect and discharge all clear water on the ground surface. No footing tile or other clear water shall be allowed into the sanitary sewer.
- (15) This section does not obligate the plumbing supervisor, the installer or the village to guarantee how long any private sewage disposal system will operate in a satisfactory manner.
- (16) Water service shall have a minimum size of one inch.
- (17) No AC electric supply shall be used in the installation of sewer mains or lateral work.

- (18) All footing drain tiles shall be collected into a sump crock, and all sumps shall extend not less than two inches above the finished floor.
- (19) All footing tile sump pump discharge pipes shall discharge above the finished grade toward the street for which the address is given on building permit, unless otherwise approved.
- (20) Notwithstanding any other provision of this subsection (b), each property owner shall be responsible for the installation, repair, maintenance and replacement of any laterals extending from the property owner's improvement to the main sewer and the appropriate village utility commission shall be responsible for the main sewer only.

(Code 1993, § 15.08)

#### **Sec. 14-79. Report of existing unsanitary conditions.**

Whenever the plumbing supervisor reports to the village health officer that the plumbing in any building is contrary to ordinances of the village or a menace to health, or upon a complaint made to the health officer by any person that the plumbing in any building is defective, the health officer shall direct the plumbing supervisor to investigate the cause for the complaint in such building and report his findings, in writing, to the health officer, suggesting such changes as are necessary to put the building in proper sanitary condition. The health officer shall then direct such changes to be made as he deems necessary and fix a time for having the changes done. Any person refusing to comply with such direction shall be deemed guilty of a violation of this article, and each day's continuance thereof shall constitute a separate offense.

(Code 1993, § 15.10)

#### **Sec. 14-80. Holding tanks.**

The use of holding tanks for disposal of sanitary liquid waste for all existing structures and any new construction commenced after the effective date of the ordinance from which this section is derived shall only be by a permit issued at the discretion of the holding tank board. The holding tank board shall consist of the plumbing inspector, administrator and trustee selected by the village board. It is the policy of the village to permit holding tanks only in instances of failed on-site sanitary systems for existing developments or in areas to be served, within a reasonable time period, with public sanitary sewer service for new developments. Any appeal from a decision of the holding tank board shall be directed to the full village board for a decision. Such appeal shall be made within 30 days following denial of the request by the holding tank board.

(Code 1993, § 15.11)

#### **Sec. 14-81. Cross connections.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Cross connection* means any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the public water system, and the other contains water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one system to the other, and the direction of the flow depends on the pressure differential between the two systems.

(b) *Prohibited.* No person shall establish or maintain, or permit to be established or maintained, any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply, other than the regular public water supply, may enter the supply distribution system of the public, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the plumbing supervisor and the state department of natural resources in accordance with Wis. Admin. Code ch. NR 811.

(c) *Inspections.*

- (1) It shall be the duty of the plumbing supervisor or the manager of the public water system to cause inspections to be made of all properties served by the public water system where cross connections with the public water system are deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved, shall be as established by the village board and as approved by the state department of natural resources.
- (2) Upon presentation of credentials, the plumbing supervisor or his representative shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system for a cross connection. If entry is refused, such representative shall obtain a special inspection warrant under Wis. Stats. § 66.0119. Upon request, the owner, lessee or occupant of any property served by a connection to the public water system shall furnish to the inspection agency any pertinent information regarding the piping systems on such property.

(d) *Disconnection of water service.*

- (1) The plumbing supervisor or the manager of the public water system are authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for a hearing under Wis. Stats. ch. 68. Water service to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

- (2) If it is determined by the plumbing supervisor or the manager of the public water system that a cross connection or an emergency endangers public health, safety or welfare and requires immediate action, and a written finding to that effect is filed with the village board and delivered to the customer's premises, service may be immediately discontinued. Within ten days of such emergency discontinuance, the customer shall have an opportunity for a hearing under Wis. Stats. ch. 68.  
(Code 1993, § 15.12)

**Secs. 14-82--14-110. Reserved.**

## **ARTICLE IV.**

### **MOVING BUILDINGS\***

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\* **Cross References:** Streets, sidewalks and other public places, ch. 70.

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#### **Sec. 14-111. Generally.**

(a) *Permit required.* No building located in the village shall be moved to another location in the village, and no building located outside the village shall be moved to a location in the village, and no building located in the village shall be moved to a location outside the village without a permit.

(b) *Permit application, documents and bond.*

- (1) An application for a moving permit shall be signed by the applicant and filed with the clerk-treasurer, and shall set forth, in detail, a description of the building to be moved and the route to be followed in the moving of such building, an estimate of how long the move will take, but no move shall take longer than six months, and, if the building is to be located in the village, shall state the building's use, construction and location and the proposed new location, the substructure that it is to be placed upon, the use intended in the future, the remodeling or renovation planned for such building, and the names and mailing addresses of all of the residents and owners of property located within a radius of 300 feet of the exterior boundary lines of the property upon which the building is to be located.
- (2) At the time of filing an application for a moving permit, the applicant for such permit shall also file the following documents with the clerk-treasurer:

- a. Two accurate photographs of the building at its present location.
- b. An accurate plat or survey of the property on which the building is to be located, if the building is to be located in the village. A plat or survey shall also show the proposed location of the building and any existing buildings or other structures thereon. In addition, the applicant shall file a rendering of the final four elevations of the building, its exterior material and its engineered grading and drainage plan.
- c. A bond in favor of the village and signed by the applicant, to be approved by the president and the village attorney, in the sum set by the village board, and:
  - 1. Conditioned to save and keep the village harmless from all damages to, and loss of, property of the village, and expenses arising therefrom, which may be incurred by the village by reason of the moving of buildings by the applicant or his contractors, servants, agents or employees.
  - 2. Conditioned to save and keep the village harmless from all liability arising by reason of the moving of buildings and to indemnify the village against any and all such judgments, claims, costs and expenses on account of bodily injury to, or the death of, third persons.
  - 3. Conditioned to save and keep the village harmless from all liability arising by reason of moving buildings, and to indemnify the village against any and all such judgments, claims, costs and expenses by reason of damage to property other than that of the village.
  - 4. Conditioned on completion of the move of the building within the time set forth in the application, but not to exceed six months. It shall further be conditioned upon compliance with any and all applicable provisions of this article or the zoning ordinance of the village (chapter 90 of this Code). Such bond will pay for the demolition and disposal of the building to be moved or for the completion of the move if the building is not moved within the time limit as set forth in this subsection.
- d. An insurance policy in the form, and by an insurance corporation, to be approved by the president and village attorney, by the terms of which policy the insurance corporation shall assume the liability and obligations of the applicant under the bond, which policy shall

further provide, by its specific terms, that it may not be cancelled or otherwise terminated without at least ten days' prior notice to the president and building inspector.

(c) *Public hearing.*

- (1) *Notice, time and place.* A public hearing shall be held at the village hall on all applications for moving permits, when the building is to be located in the village. If the applicant shall have complied with the provisions of subsection (b) of this section prior to a period of ten days before the fourth Monday of the calendar month, such public hearing shall be held on the fourth Monday, but, if the applicant shall not have complied, such public hearing shall be held on the fourth Monday of the following calendar month. The clerk-treasurer shall mail notices of such hearing by regular mail, in such form as he shall determine, to all residents and owners of property located within a radius of 300 feet of the exterior boundary lines of the property on which the building is to be located.
- (2) As an alternative to holding a public hearing as provided in subsection (c)(1) of this section, the applicant may present to the clerk-treasurer an agreement, in writing, signed by not less than three-fourths of all the residents and owners of property located within a radius of 300 feet of the exterior boundary lines of the property on which the building is to be located, affirming that the residents and owners have no objection to the building being moved to the property in question, provided each resident who has signed such agreement shall have received an accurate drawing/rendering of how the building will appear following the move, together with the engineered grading and drainage plans. In any event, such drawing/rendering and engineered grading and drainage plans shall be available for inspection at the office of the building inspector before and after a permit is issued.

(d) *Powers of board and president.*

- (1) Every applicant for a permit to move any building to be located in the village shall be referred to the plan commission for review and recommendation to the village board. No permit for the moving of any such building shall be issued unless the village board, by at least a majority vote, after a review of the building to be moved and any plans for the remodeling or renovation of such building, the four final elevations and the village approved grading and drainage plans as may be presented to it, determines that the exterior architectural design or appearance of the building to be moved is compatible with the immediate neighborhood.
- (2) The village board shall approve an application for a permit subject to the promise of the applicant that he will remodel or renovate the building, if

feasible, as the village board may require. To secure the performance of such promise, the village board shall require of the applicant either a cash or surety bond running to the village in such an amount as is estimated by the village board to be equal to the cost of such remodeling or renovation, or as may be agreed upon by the village board and the applicant, but not less than \$5,000.00.

- (3) Every application for a permit to move any building shall be referred to the building inspector, and no permit shall be granted by the building inspector authorizing the moving of any building until the president shall have approved, in writing, the route to be followed in the moving of such building, and the approved route must be followed in every instance.
- (4) The president is authorized to make his approval conditional upon the reduction in size of the building to be moved in every case where, in his judgment, such reduction in size will aid in preserving the condition of streets, trees or other vegetation and, in every case, such building shall be reduced in size before being placed upon any public street.
- (5) No permit shall be granted for the moving of any structure which has deteriorated, or been damaged from any cause, to 50 percent or more of its original value.

(e) *Requirements.* Every moving permit issued shall be construed as demanding the fulfillment of the following requirements, whether or not stated in such permit, and the building inspector shall not be at liberty to waive performance of any of such requirements:

- (1) Every permit to move a building shall state the conditions to be complied with, designate the route to be taken and limit the time for removal.
- (2) The moving of any building along any street or alley shall be carried on without interruption during working hours.
- (3) In the moving of any building along busy or crowded streets or alleys, the president may require the moving of the building to be carried on at nighttime as well as daytime in order to complete the moving process with the least possible obstruction to streets or alleys.
- (4) Every person to whom a permit is issued shall notify the building inspector when the actual work of moving the building is to be commenced.
- (5) Upon receiving the notice as provided in subsection (d) of this section, the president shall name an inspector, whose duty it shall be to supervise the moving of the building. The person receiving the permit shall pay to the building inspector the expense of such inspector and for all labor involved

in the trimming or removal of trees along the route as provided in subsection (e)(6) of this section.

- (6) In every case where it shall be necessary to trim or remove any tree along the route, such trimming or removal shall be done under the supervision of the building inspector.
- (7) No building shall be allowed to remain overnight upon any street crossing or intersection, or so near thereto as to prevent easy access to any fire hydrant.
- (8) Lighted lanterns displaying a red light shall be attached to every building being moved along a street during the period from 30 minutes after sunset to 30 minutes before sunrise. Such lighted lanterns shall be attached to the building, one at each corner, and in every case, lanterns shall not be placed farther apart than 12 feet.
- (9) Every person who has moved a building as provided in this article shall report to the building inspector and the president within one day after the building has reached its destination. The president shall thereupon inspect the streets and alleys over or along which the building has been moved. The president shall report the damage ascertained by such inspection to the building inspector and the person to whom the permit was issued, and the permit holder shall immediately repair such damage. In every case where the permit holder shall fail to repair the damage to the satisfaction of the president, the president shall cause such damage to be repaired and charged against the permit holder.

(f) *Fee.* The fee for each moving permit shall be as determined from time to time by resolution to the village board.  
(Code 1993, § 14.07)

**Secs. 14-112--14-140. Reserved.**

## **ARTICLE V.**

### **BUILDING NUMBERING\***

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\* **Cross References:** Streets, sidewalks and other public places, ch. 70.

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#### **Sec. 14-141. Uniform system of numbering houses and buildings.**

(a) *Uniform system established.* There is established a uniform system of numbering houses and buildings fronting on all streets, avenues and public ways in the village, and all houses and buildings shall be numbered in accordance with the provisions of this section.

(b) *Baselines.* Shirley Avenue shall constitute the baseline of numbering along all streets running north and south, and the city limits of the City of Racine shall constitute the baseline for numbering all streets running east and west.

(c) *Procedure.*

- (1) The numbering for each street shall begin at the baseline. The numbers in the first block shall be from 10--99, the second block from 100--199, the third block from 200--299, etc., except on the streets running east and west the numbering shall commence with the next 100 from the last 100 within the city limits of the City of Racine. One hundred numbers shall be assigned to each block, square or space that would be one block or square, if streets each way were extended so as to intersect each other, and one number shall be assigned to each 20 feet of frontage.
- (2) All lots and houses on the south and east side of all streets shall be numbered with odd numbers, and all lots and houses on the north and west side of all streets shall be numbered with even numbers, each commencing with the 100 numbers assigned to that block, and shall increase one number from the baseline for each 20 feet of frontage, or fraction thereof. Where any building has more than one door serving separate occupants, a separate number shall be assigned to each door serving a separate occupant, provided, the building is 25 feet or more in width. If the building is not 25 feet or more in width, and the entrances are not that far apart, the next consecutive number shall be marked as a fractional. Buildings fronting on two or more streets shall have a number fronting on the main entrance or the main arterial/collector street, unless other entrances serve other occupants.
- (3) All streets not extending through to the baseline shall be assigned the same relative numbers as if the streets had extended to the baseline.

(d) *Assignment, cost and placement.*

- (1) The village has caused a survey to be made and there is assigned to each house and building located on any street, alley, highway or avenue in the village its respective number under the uniform system provided for in this section. Within 30 days after the effective date of the ordinance from which this section is derived, the owner, occupant or agent shall place, or cause to be placed, upon each house or building controlled by him the number assigned under the uniform system provided for in this section.
- (2) The cost of such number shall be paid for by the owner.

- (3) The number shall be conspicuously placed immediately above, on or at the side of the proper door of each building so that the number can be plainly seen from the street, and shall be in place prior to the building inspector granting occupancy of such building. In cases of extended building setbacks, grade differentials or other unique circumstances, alternative placement of address numbers may be permitted, subject to approval by the building inspector.

(e) *Information.* The building inspector shall inform any party applying for a building number of the number belonging to, or embraced within, the limits of the lot or property as provided in this section. In case of doubt as to the proper number to be assigned to any lot or building, the building inspector shall determine the number of each lot or building.

(f) *Enforcement.* If the owner or occupant of any building required to be numbered by this section shall neglect for more than 30 days to attach and maintain the proper number of such building, the building inspector shall cause to be served upon such person the notice requiring such owner or occupant to properly number the building and, if such person neglects to do so for ten days after the serving of such notice, he shall be deemed to have violated this section.

(Code 1993, § 14.08)

**Secs. 14-142--14-170. Reserved.**

## **ARTICLE VI.**

### **WELLS**

#### **Sec. 14-171. Generally.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Municipal water system* means a community water system owned by a city or town, under contract with a city, or a federal, state, county or municipally owned institution for congregate care or correction, or a privately owned water utility serving such municipalities.

*Noncomplying* means a well or pump installation which does not comply with Wis. Admin. Code § NR 812.42, concerning standards for existing installations, and which has not been granted a variance, and any well or pump installation which fails a water quality standard test.

*Pump installation* means the pump and related equipment used for withdrawing water from a well, including the discharge piping, underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

*Unsafe* means a well or pump installation which produces water which is bacteriologically contaminated or exceeds the drinking water standards of Wis. Admin. Code § NR 812.06, or for which a health advisory has been issued by the department of natural resources.

*Unused* means a well or pump installation which is not used or does not have a functional pumping system.

*Well* means an excavation or opening into the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater for consumption or other use.

*Well abandonment* means the filling and sealing of a well according to the provisions of Wis. Admin. Code § NR 812.26.

(b) *Applicability.* This section applies to all wells in the village.

(c) *Abandonment required.* All wells on premises served by the municipal water system shall be abandoned in accordance with the terms of this section and Wis. Admin. Code ch. NR 812, not later than one year from the date of connection to the municipal water system, unless a well operation permit has been obtained by the well owner from the plumbing supervisor.

(d) *Operation permit.* The plumbing supervisor shall grant a permit to a well owner to operate a well for a period not to exceed five years, provided, the conditions of this section are met. An owner may renew a well operation permit by submitting information verifying that the conditions of this section are met. The plumbing supervisor or his agent may conduct inspections or have water quality tests conducted, at the applicant's expense, to obtain or verify information necessary for consideration of a permit application or renewal. Well operation permit applications and renewals shall be made on forms provided by the plumbing supervisor. The following conditions must be met for issuance or renewal of a well operation permit:

- (1) The well and pump installation shall meet, or be upgraded to meet, the requirements of Wis. Admin. Code § NR 812.42, and have a functional pumping system;
- (2) The well construction and pump installation shall have a history of producing bacteriologically safe water, as evidenced by at least two samples taken a minimum of two weeks apart. No exception to this condition may be made for unsafe wells, unless the department of natural resources approves, in writing, the continued use of the well;
- (3) There shall be no cross connection between the well's pump installation and the municipal water system; and

- (4) The proposed use of the well and pump installation can be justified as reasonable, in addition to water provided by the municipal water system.

(e) *Abandonment procedures.*

- (1) All wells abandoned under the jurisdiction of this section shall be abandoned according to the procedures and methods of Wis. Admin. Code § NR 812.26. All debris, pumps, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.
- (2) The owner of the well or his agent shall notify the plumbing supervisor at least 48 hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by an employee of the village.
- (3) An abandonment report form supplied by the department of natural resources shall be submitted by the well owner to the plumbing supervisor and the department of natural resources within 30 days of completion of the well abandonment.

(f) *Violations; penalties.* Any well owner violating any provision of this section shall, upon conviction, be punished by a forfeiture as provided in section 1-15. Each day of a violation is a separate offense. If any person fails to comply with this section for more than 30 days after receiving written notice of the violation, the village may impose a penalty and cause the well abandonment to be performed, and the expense thereof to be assessed as a special tax against the property.

(Code 1993, § 15.13)

**Chapters 15--17**

**RESERVED**

## Chapter 18

### COURT\*

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\* **Cross References:** Administration, ch. 2; law enforcement, ch. 42; offenses and miscellaneous provisions, ch. 54; traffic and vehicles, ch. 78.

**State Law References:** Municipal courts generally, Wis. Stats. § 755.001 et seq.

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<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
Sec. 18-1.	Municipal judge and municipal court.	03-2014 04-2014	01/13/14 01/13/14

**Sec. 18-1. Municipal judge and municipal court.**

(a) *Municipal judge.*

- (1) *Office created.* Pursuant to the authority granted by statute, there is created the office of municipal judge for the village.
- (2) *Election and term.* The municipal judge shall be elected at large at the regular spring election in April for a term of four years, commencing from the first day of May next following his election.
- (3) *Salary.* The municipal judge shall receive an annual salary as established by the village board, which shall be in lieu of fees and costs. No salary shall be paid to the municipal judge for any time during his term for which he has not executed and filed his official bond and oath as required by subsection (a)(4) of this section.
- (4) *Bond and oath.* The municipal judge shall execute and file with the county clerk of the circuit court the oath prescribed by law and a bond in the penal sum of \$1,000.00.
- (5) *Jurisdiction.*
  - a. The municipal judge shall have such jurisdiction as provided in Wis. Stats. § 755.045, and exclusive jurisdiction of violations of village ordinances.
  - b. The Village of Elmwood Park and the Village of Mount Pleasant have entered into an agreement whereby the Village of Elmwood Park Police Department will enforce certain state and local laws and ordinances at certain times within the Village of Elmwood Park. Pursuant to statute and the agreement between the Village of Elmwood Park and the village, there is created and established in and for the Village of Elmwood Park and the village, a joint municipal court, pursuant to Wis. Stats. § 755.01(4). Pursuant to the agreement and statute, the Village of Elmwood Park Constable may patrol and enforce state and local laws and ordinances within the boundaries of the Village of Elmwood Park. The current elected judge for the village shall have jurisdiction and authority to enforce the state and local laws and ordinances and any infractions thereof occurring within the boundaries of the Village of Elmwood Park and all fines, forfeitures and costs shall be retained by the village. Pursuant to Wis. Stats. § 775.01(4), the current judge of the village shall serve as the judge for the joint court until the end of the current term or until a special election is held under Wis. Stats. § 8.50(4)(fm).

- (6) *Qualifications.* No person shall be elected to the office of Municipal Judge who is not at the time of his/her election and for the entire tenure of his/her office, a citizen of the State of Wisconsin, a resident of the Village of Mt. Pleasant and an attorney licensed to practice law in the State of Wisconsin.

(b) *Municipal court.*

- (1) The court of the municipal judge shall be known as the "Municipal Court for the Village of Mount Pleasant, Racine County, Wisconsin," and shall be open as determined by the municipal judge.
- (2) The municipal judge shall keep his office and hold court in the village hall.
- (3) Except as provided by law, the procedure in municipal court shall be the same as provided in Wis. Stats. ch. 800.
- (4) The municipal judge shall collect all forfeitures and taxable costs in any action or proceeding before him, and shall pay over such monies to the village clerk-treasurer not later than the 30th business day succeeding his receipt thereof.
- (5) The provisions of Wis. Stats. § 800.12, relating to municipal court contempt procedures, are adopted by reference in this section as if set forth in full in this section.
- (6) The municipal judge may impose a forfeiture for contempt in an amount not to exceed \$50.00 or, upon nonpayment of the forfeiture, a penalty assessment under Wis. Stats. § 757.05, jail assessment under Wis. Stats. § 302.46, crime laboratories and drug law enforcement assessment under Wis. Stats. § 165.755, any applicable consumer protection assessment under Wis. Stats. § 100.261, any applicable domestic abuse assessment under Wis. Stats. § 973.055(1), and a jail sentence not to exceed seven days.
- (7) The Municipal Judge may impose as a cost to a party appearing before the municipal court the actual cost of an interpreter at his/her normal hourly rate, including mileage, if any.

**Chapters 19--21**

**RESERVED**

## Chapter 22

### ELECTIONS\*

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\* **Cross References:** Any ordinance calling an election saved from repeal, § 1-8(8); administration, ch. 2.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
Sec. 22-1.	Election officials.		
Sec. 22-2.	Wards and polling places.	07-2011	12/12/11
Sec. 22-3.	Reserved.		

## **Sec. 22-1. Election officials.**

The number of election officials in each precinct of the village shall be five inspectors. Any inspector shall, when necessary or required by law, perform the duties or an act as clerk of election or ballot clerk.

(Ord. No. 6-2002, 7-8-2002; Ord. No. 5-2004(2), § 1.40, 4-26-2004; Ord. No. 13-2009, 10-12-2009)

## **Sec. 22-2. Wards and polling places.**

- (1) The village is divided into 23 wards which shall conform to the following boundaries:
  - a. Ward 01: Bounded on the north by STH 20 (Washington Avenue); bounded on the east by Willow Road; bounded on the south by the City of Racine and Chicago/Milwaukee St. Paul & Pacific Railroad Right-of-way and Racine/Sturtevant Bike Trail; bounded on the east by the City of Racine; bounded on the south by the City of Racine, bounded on the east by STH 31 (Green Bay Road); bounded on the south by Braun Road; bounded on the west by Village of Sturtevant; bounded on the south by the Village of Sturtevant; bounded on the west by the Village of Sturtevant; bounded on the south by the Village of Sturtevant; bounded on the west by the Village of Sturtevant.
  - b. Ward 02: Bounded on the north by STH 20 (Washington Avenue); bounded on the east by the City of Racine; bounded on the south by the City of Racine; bounded on the south by the City of Racine; bounded on the east by STH 31 (Green Bay Road); Racine; bounded on the south by the City of Racine; bounded on the south by the City of Racine; bounded on the east by STH 31 (Green Bay Road); bounded on the north by the City of Racine; bounded on the east by the City of Racine; bounded on the south by 16th Street (Village properties on south side); bounded on the east by STH 31 (Green Bay Road, including Village properties east of STH 31 and north of City of Racine boundary); bounded on the south the City of Racine; bounded on the west by the City of Racine; bounded on the south by City of Racine; bounded on the west by the City of Racine; bounded on the west by Meadow Lane.
  - c. Ward 03: Bounded on the north by CTH C (Spring Street); bounded on the east by Newman Road; bounded on the south by STH 20 (Washington Avenue); bounded on the west by Sunnyslope Drive; bounded on the south by Mariner Drive; bounded on the west by Emmertsen Road.

- d. Ward 04: Bounded on the north by CTH C (Spring Street); bounded on the east by STH 31 (Green Bay Road) including Village properties east of STH 31 and adjacent to City of Racine boundary; bounded on the south by STH 20 (Washington Avenue); bounded on the west by Newman Road.
- e. Ward 05: Bound on the north by the Village of Caledonia boundary; bounded on the east by the City of Racine boundary; bound on the south by the City of Racine; bound on the west by Illinois Street and the City of Racine boundary; bound on the south by the City of Racine boundary; bound on the west by Ole Davidson Road and STH 31 (Green Bay Road); including properties on Eaton Lane.
- f. Ward 06: Bound on the north by the Village of Caledonia; bound on the east by Ole Davidson Road and STH 31 (Green Bay Road); bound on the south by CTH C (Spring Street); bound on the west by Newman Road.
- g. Ward 07: Bound on the north by Independence Road; bound on the east by Newman Road; Bound on the south by CTH C (Spring Street); bound on the west by Emmertsen Road.
- h. Ward 08: Bound on the north by the Village of Caledonia boundary; bound on the east by Newman Road; bound on the south by Independence Road; bound on the west by Emmertsen Road.
- i. Ward 09: Bound on the north by the Village of Caledonia; bound on the east by Emmertsen Road; bound on the south by CTH C (Spring Street); bound on the west by Airline Road.
- j. Ward 10: Bound on the north by CTH C (Spring Street); bound on the east by Emmertsen Road; bound on the south by Mariner Drive; bound on the west by Sunnyslope Drive; bound on the south by Greenhill Drive; bounded on the west by Summerset Drive.
- k. Ward 11: Bound on the north by STH 20 (Washington Avenue); bound on the east by Meadowlane; bound on the 16th Street and the City of Racine boundary; by on the east by the City of Racine boundary; bound on the south by the Chicago/Milwaukee St. Paul & Pacific Railroad Right-of-way and Racine/Sturtevant Bike Trail; bound on west by Willow Road.

- l. Ward 12: Bound on the north by CTH C (Spring Street); bound on the east by Summerset Drive; bound on the south by Greenhill Drive; bound on the east by Sunnyslope Drive; bound on the south by STH 20 (Washington Avenue); bound on the west by the Union Pacific Railroad (former Wisconsin Great Northern Railroad).
- m. Ward 13: Bound on the north by the Village of Caledonia; bound on the east by Fancher Road; bound on the south by CTH C (Spring Street); bound on the west by Wisconsin Interstate 94.
- n. Ward 14: Bound on the north by the Village of Caledonia; bound on the east by Airline Road; bound on the south by CTH C (Spring Street); bound on the west by Fancher Road.
- o. Ward 15: Bound on the north by CTH C (Spring Street); bound on the east by the Union Pacific Railroad (former Wisconsin Great Northern Railroad); bound on the south by STH 20 (Washington Avenue) and the Village of Sturtevant; bound on the east by the centerline of the Hoods Creek waterway.
- p. Ward 16: Bound on the north by CTH C (Spring Street); bound on the east by the centerline of the Hoods Creek waterway and Village of Sturtevant boundary; bound on the south by Braun Road and the Village of Sturtevant boundary; bound on the east by CTH Y (Taylor Avenue); bound on the south by CTH KR (County Line Road); bound on the west by Wisconsin Interstate 94.
- q. Ward 17: Bound on the north by STH 11(Durand Avenue); bound on the east by Elwood Drive; bound on the south by Tahoe Drive; bound on the east by Gayhardt Street; bound on the south by Wakefield Court; bound on the east by the City of Racine boundary and CTH Y (Taylor Avenue); bound on the south by Braun Road; bound on the west by STH 31(Green Bay Road).
- r. Ward 18: Bound on the north by STH 11(Durand Avenue) including Village properties along Oregon Street north of STH 11; bound on the east by the City of Racine boundary; bound on the south by the City of Racine Boundary; bound on the east by the City of Racine boundary; bound on the south by Wakefield Court; bound on the west by Gayhardt Street; bound on the south by Tahoe Drive; bound on the west by Elwood Drive.
- s. Ward 19: Bound on the north by CTH Y (Taylor Avenue) and the Village of Elmwood Park boundary; bound on the east by the City of Racine Boundary; bound on the South by the City of Racine

boundary and Chicory Road; bounded on the east by the City of Racine boundary and by Lathrop Avenue; bound on the south by Garden Drive and Leslie Ann Lane and Willow Wood Drive and Newport Lane; bound on the west by White Oak Drive; bound on the south by Nature Trail; bound on the west by Wood Road; bound on the north by CTH Y (Taylor Avenue); bound on the west by Meachem Road including Village properties west of Meachem Road; bound on the north by Maryland Avenue; bound on the east by Indiana Street.

- t. Ward 20: Bound on the north by CTH Y (Taylor Avenue); bound on the east by Wood Road; bound on the south by CTH KR (County Line Road); bound on the west by Old Green Bay Road.
- u. Ward 21: Bound on the north by Nature Trail; bound on the east by White Oak Drive; bound on the north by Newport Lane; bound on the east by Weather Wood; bound on the north by Leslie Ann Lane and Garden Drive and the City of Racine boundary and Chicory Road; bound on the east by Lake Michigan; bounded on the south by CTH KR (County Line Road) bounded on the west by Wood Road.
- v. Ward 22: Bound on the north by Larson Street; bound on the east by Lake Michigan; bound on the south by Sheridan Road; bound on the west by STH 32.
- w. Ward 23: Bound on the north by STH 11(Durand Avenue) and the City of Racine boundary; bound on the west by STH 32; bound on the south by 23rd Street; bound on the west by Clark Street; bound on the north by 21st Street; bound on the east by the City of Racine boundary; bound on the north by 24th Street; bound on the east by Lake Michigan; bound on the south by Larson Street; bound on the east by STH 32; bound on the south by Chicory Road; bound on the west by the City of Racine boundary; bound on the south by South Memorial Drive; bound on the west by the City of Racine boundary; bound on the south by Winthrop Avenue; bound on the west by the City of Racine boundary and Carpenter Avenue.

- (2) The polling places for elections shall be established by resolution of the Village Board from time to time.

### **Sec. 22-3. Reserved.**

**Editors Note:** Ord. No. 2-2009, § 1, adopted Jan. 26, 2009, repealed § 22-3, in its entirety. Former § 22-3, pertained to municipal board of absentee canvassers and derived from Ord. No. 8-2007, § Part I, adopted Nov. 26, 2007 and Ord. No. 4-2008, § Part I, adopted Feb. 15, 2008.

**Chapters 23--25**

**RESERVED**

## Chapter 26

### EMERGENCY GOVERNMENT\*

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\* **Cross References:** Fire prevention and protection, ch. 34; law enforcement, ch. 42.

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<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
Sec. 26-1.	Declaration of policy.		
Sec. 26-2.	Definitions.		
Sec. 26-3.	Emergency government committee.		
Sec. 26-4.	Coordinator of emergency government services.		
Sec. 26-5.	Sharing of costs.		
Sec. 26-6.	Joint meetings.		
Sec. 26-7.	Utilizing of existing services and facilities.		
Sec. 26-8.	Succession of officers.		
Sec. 26-9.	Emergency regulation of water usage.		
Sec. 26-10.	Noncompliance; penalties.		

### **Sec. 26-1. Declaration of policy.**

To prepare the village to cope with emergencies resulting from enemy action and natural or manmade disaster, it is declared to be necessary to establish an organization for emergency government for the village by conferring upon the president of the village and others specified duties and powers, consistent with Wis. Stats. ch. 166.  
(Code 1993, § 6.01)

### **Sec. 26-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Civil defense* means all measures undertaken by, or on behalf of, the state, county and municipalities to prepare for, and minimize the effects of, enemy action upon the civilian population.

*Emergency government* includes civil defense, and means all measures undertaken by, or on behalf of, the village in order to:

- (1) Prepare for, and minimize the effect of, enemy action and natural or manmade disaster upon the civilian population.
- (2) Effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.

(Code 1993, § 6.02)

**Cross References:** Definitions generally, § 1-2.

### **Sec. 26-3. Emergency government committee.**

(a) *Constitution.* The village board shall be the emergency government committee, whose chair shall be the president of the village.

(b) *Duties.* The emergency government committee shall:

- (1) Be an advisory and planning group;
- (2) Advise the coordinator of emergency government services on all emergency government matters; and
- (3) Annually prepare and adopt a budget for emergency government.

(Code 1993, § 6.03)

**Cross References:** Boards, commissions and committees, § 2-181 et seq.

#### **Sec. 26-4. Coordinator of emergency government services.**

The county coordinator of emergency government services shall also hold the office of coordinator of emergency government services of the village. The president of the village shall appoint deputies and assistants to the coordinator, as requested. The coordinator of emergency government services shall:

- (1) Develop and promulgate emergency government plans for the village, consistent with state and county plans.
- (2) Direct the emergency government program for the village and perform such other duties related to emergency government as are required of the village board and the emergency government committee.
- (3) Direct the village emergency government training programs and exercises.
- (4) Direct the village participation in emergency government training programs and exercises.

(Code 1993, § 6.04)

#### **Sec. 26-5. Sharing of costs.**

(a) *Office and staff.* The county board shall provide offices, office furniture, stenographic help and such office supplies as are necessary to carry out the functions of the county coordinator of emergency government services, and the cost thereof shall be defrayed by the county, with the help of the Federal Financial Assistance Program.

(b) *Major equipment and services.* Cost of equipment and services requested by the village shall be borne 100 percent by the village with federal financial assistance procured by the county/village coordinator of emergency government services, when applicable. Federal financial assistance reimbursements shall be returned to the village clerk-treasurer.

(Code 1993, § 6.05)

#### **Sec. 26-6. Joint meetings.**

Whenever it is deemed necessary by either the county emergency government committee or the village emergency government committee, there shall be a joint meeting of the committees to decide such matters as may arise.

(Code 1993, § 6.06)

#### **Sec. 26-7. Utilizing of existing services and facilities.**

(a) *Policy.* In preparing and executing the emergency government program, the services, equipment, supplies and facilities of the existing departments and agencies of the village shall be utilized to the maximum extent practicable, and the heads and personnel of all

such departments and agencies are directed to cooperate and extend such services and facilities as are required of them.

(b) *Responsibility.* In order to ensure that in an emergency all the facilities of the existing village government are expanded to the fullest to meet such emergency, department and emergency heads assigned to specific responsibilities under the village emergency operations plan will fulfill emergency and nonemergency duties as prescribed in the plan.  
(Code 1993, § 6.07)

#### **Sec. 26-8. Succession of officers.**

Notwithstanding any other reference to the succession of village officers in this chapter or statute, in the case of a civil defense emergency, should the president of the village be absent or otherwise incompetent to act, the order of succession to the duties of president during such period of a civil defense emergency shall be declared by annual resolution per Wis. Stats. ch. 166.  
(Code 1993, § 6.08)

#### **Sec. 26-9. Emergency regulation of water usage.**

When the village board determines that the effect produced on the water table by unregulated use of water in the village threatens the public health and welfare of the village's residents, the village board may establish such reasonable temporary rules and regulations controlling the use of such water as are deemed necessary to protect the public health and welfare. Such action shall be by resolution of the village board.  
(Code 1993, § 6.09)

#### **Sec. 26-10. Noncompliance; penalties.**

Any person who intentionally fails to comply with the directives of emergency government authorities promulgated under this chapter during a state of emergency, or during any training program or exercise, shall be subject to a penalty as provided in section 1-15.  
(Code 1993, § 6.10)

**Chapters 27--29**

**RESERVED**

## Chapter 30

### FEEES AND CHARGES\*

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\* **Cross References:** Any village's schedules of fees and charges saved from repeal, § 1-8(15); administration, ch. 2.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 30-1.	Development fees		
Secs. 30.2 – 30-50.	Reserved.		
<b>Article II. Impact Fees</b>			
Sec. 30-51.	Impact fees established.		
Sec. 30-52.	Establishment of service area/areas.		
Sec. 30-53.	Standards.		
Sec. 30-54.	Amount.		
Sec. 30-55.	Payment.		
Sec. 30-56.	Low cost housing.		
Sec. 30-57.	Separate fund established.		
Sec. 30-58.	Refund of impact fees.	10-2014	06/23/14
Sec. 30-59.	Exemptions		
Sec. 30-60.	Violation and penalties.		
Sec. 30-61.	Appeal.		

**ARTICLE I.**  
**IN GENERAL**

**Sec. 30-1. Development fees.**

(a) *Building, heating, moving and razing permit fees.* Building, heating, moving and razing permit fees shall be as follows:

Minimum permit fee for all permits		\$ 40.00 per inspection
One- and two-family residences and attached garage		0.22 per square foot
Residence additions		0.20 per square foot or fraction thereof
Local business, office buildings or additions		0.20 per square foot or fraction thereof
Manufacturing or industrial (office areas to be included under E.)		0.15 per square foot or fraction thereof
Permit to start construction of footings and foundations		150.00 multifamily, industrial and commercial
Agricultural buildings, detached garages and accessory buildings		0.18 per square foot
All other buildings, structures, alterations, residing and repairs where square footage cannot be calculated		8.00 per \$1,000.00 valuation
Heating, incinerator units and wood burning appliances		40.00 per unit, up to and including 150,000 input BTU units 15.00 Additional fees per each 50,000 BTU or fraction thereof 750.00 maximum per unit
Commercial/industrial exhaust hoods and exhaust systems		60.00 per unit
Heating and air conditioning distribution		1.50 per 100 square foot of conditioned area 40.00 minimum
Air conditioning		40.00 per unit up to three tons or 36,000 BTUs. Additional fee of \$15.00 per each ton or 12,000 BTUs or fraction thereof 750.00 maximum per unit
One- and two-family lots		100.00 per lot
Multifamily units, commercial lots, industrial lots and institutional lots		150.00 per building, plus 5.00 per 1,000 square feet of disturbed lot area 2,000.00 maximum
Failure to call for final inspection		50.00
Wrecking, razing or interior demolition		40.00 minimum, plus 0.50 per square foot 500.00 maximum fee for the building
Moving buildings over public ways		100.00, plus 0.50 per square foot
Reinspection		50.00 per inspection
Plan examinations:		
	One- or two-family residences	100.00

	Apartment, three-family residences, rowhousing and multiple-family buildings	150.00, plus 15.00 per unit
	Commercial/industrial alterations and additions	150.00
	Additions to one- and two-family dwellings	50.00
	Alterations to one- and two-family dwellings	30.00
	Accessory building greater than 120 square feet	50.00
	Decks, swimming pools	30.00
	Heating plans, lighting and energy calculations to heating plans, submitted separately	30.00
<i>Priority plan review:</i> At the discretion of the building inspector and depending upon the workload of the department, two business day priority plan reviews may be provided at double the regular rate for plan review fees. Certified municipalities may also charge double the regular state plan review fees in addition to the fees listed in this table. Priority plan review shall not apply to submittals requiring review and/or approval by other governing agencies of the municipality.		
	Resubmission of previously approved plans	30.00
Special inspections and reports		100.00
State uniform building permit seal		5.00, plus state fee
Occupancy permits:		
	Residential	30.00 per unit, addition, alteration or accessory building over 120 square feet
	Office, commercial and industrial	125.00
Pools (inground and aboveground) and spas		8.00 per \$1,000.00 valuation 40.00 minimum
Decks and sheds		50.00
Other		40.00 minimum
Double fees upon failure to obtain a permit before work on a building has been started, except in emergency cases, the total fee shall be double the fees charged.		

(b) *Electrical permit fees.* Electrical permit fees shall be as follows:

(1) *New residential construction.*

Per Unit Charge	
One-bedroom	$\$27.00 \times \# \text{ of units}$
Two-bedroom	$\$32.50 \times \# \text{ of units}$
Three-bedroom	$\$42.50 \times \# \text{ of units}$
Four-bedroom	$\$52.50 \times \# \text{ of units}$

(2) *Ampere service charge for all services.*

Per Unit Charge	
100-amp	$\$30.00 \times \# \text{ of units}$
200-amp	$\$35.00 \times \# \text{ of units}$

400-amp	$45.00 \times \# \text{ of units}$
600-amp	$55.00 \times \# \text{ of units}$
800-amp	$65.00 \times \# \text{ of units}$

Per Circuit Charge	
$\$0.75 \times \# \text{ of circuits}$	

(3) *Commercial, industrial and agriculture work job value.* Commercial, industrial and agriculture work job values shall be estimated as follows:

- a. Estimated job value range of \$50.00--\$500.00, \$2.00 for each \$100.00, and \$0.25 for each \$10.00 fraction thereafter.
- b. Estimated job value range of \$500.00--\$10,000.00, \$15.00 for the first \$500.00, plus \$1.30 for each \$100.00 fraction thereof.
- c. Estimated job value range over \$10,000.00, \$150.00, plus \$0.80 per \$100.00 fraction thereafter.
- d. Reinspection fee shall be \$40.00.
- e. Minimum fee shall be \$32.50.

(c) *Plumbing permit fees.* Plumbing permit fees shall be as follows:

- (1) Storm sewer . . . . . \$ 35.00
- (2) Outside sewer . . . . . 35.00
- (3) Water . . . . . 30.00
- (4) Well registration . . . . . 35.00
- (5) Well abandonment . . . . . 25.00
- (6) Sewer disconnect . . . . . 25.00
- (7) Plumbing fixtures:
  - a. First fixture . . . . . 25.00
  - b. Each additional fixture . . . . . 7.00
  - c. Road opening . . . . . 100.00

- (8) Manholes . . . . . 15.00
- (9) Catchbasins . . . . . 15.00
- (10) Reinspection . . . . . 30.00
- (d) *Fire department review fees.* Fire department review fees shall be as follows:
  - (1) Basic fire sprinkler review, per system . . . . . \$250.00
  - (2) Additional reviews of the same system, each . . . . . 200.00
  - (3) Fire pumps, each . . . . . 250.00
  - (4) Modifications to existing systems, per sprinkler head . . . . . 20.00  
Up to a maximum of \$250.00.
  - (5) Review of additional hydraulic calculations, per set . . . . . 150.00
  - (6) Fire protection underground piping, per 100 feet . . . . . 20.00  
Up to a maximum of \$20.00.
  - (7) Fire hydrant, each . . . . . 50.00
  - (8) Fire hose connections, each . . . . . 15.00
  - (9) Standpipe systems . . . . . 250.00
  - (10) Inspections, per hour . . . . . 75.00
  - (11) Witness tests, per hour . . . . . 75.00

#### MUNICIPAL WATER MAIN CONNECTION FEES

Diameter (Inches)	Amount	Diameter (Inches)	Amount
3/4--1	\$450.00	4	\$1,600.00
1 1/2	600.00	6	2,400.00
2	800.00	8	3,000.00

## MUNICIPAL SANITARY SEWER CONNECTION FEES

Single-family residential		\$ 700.00
Multiunit residential:		
	First unit	700.00
	Second unit	350.00
	Each additional unit	200.00
Commercial, industrial and institutional		1,050.00

Meter Size (Inches)	Capacity (gpm)	Meter Equivalent	Base Rate	\$200.00
5/8	20	1	\$1,050.00	\$ 1,250.00
3/4	25	1.5		1,350.00
1	50	2.5	1,550.00	1,550.00
1 1/2	100	5		2,050.00
2	160	8		2,650.00
3	300	15		4,050.00
4	500	25		6,050.00
6	1,000	50		11,050.00

## DEVELOPMENT FEES

Application Type		Amount
Residential business/home occupation		\$ 35.00
Temporary use		50.00
Sign permit:		
•	Amended sign	100.00
•	New sign	125.00
Oversized garage		100.00
Site plan		450.00 for initial 30,000 square feet of building, plus 0.20 per square foot thereafter
Certified survey map		250.00
Variance		125.00
Preliminary subdivision plat		250.00, \$50.00/lot
Final subdivision plat		250.00, \$25.00/lot
Conditional use		350.00
Overlay planned development		350.00, \$35.00/acre
Rezoning		500.00

**Secs. 30-2--30-50. Reserved.**

## **ARTICLE II.**

### **IMPACT FEES\***

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\* **Editors Note:** Ord. No. 3-2007, adopted Mar. 12, 2007, enacted a new Ch. 91, Impact Fees. In keeping with the numbering style of this Code these provisions have been included herein as Art. II, Impact Fees at the discretion of the editor.

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#### **Sec. 30-51. Impact fees established.**

Pursuant to the authority to impose impact fees found in Wis. Stats. § 66.0617, as amended, and pursuant to the impact fees studies and plans required therein, the village hereby establishes and imposes impact fees as prescribed in this article.  
(Ord. No. 3-2007, § 1(91-1), 3-12-2007)

#### **Sec. 30-52. Establishment of service area/areas.**

There are hereby established certain geographically defined areas which shall be known as the service area within which it will be necessary to enlarge and improve new and existing public facilities attendant to the village park system, law enforcement system, fire and rescue system, stormwater system and transportation system as a result of land development and growth within the village.

The service areas are shown in Exhibit A of this article and are on file in the office of the clerk of the village and made a part hereof by reference.  
(Ord. No. 3-2007, § 1(91-2), 3-12-2007)

#### **Sec. 30-53. Standards.**

In accordance with Wis. Stats. § 66.0617, the village adopts the following standards for impact fees which will be imposed under this article. Impact fees adopted by the village:

- (1) Shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.
- (2) May not exceed the proportionate share of the capital costs that are required to serve land development, as compared to existing uses of land within the village.
- (3) Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.
- (4) Shall be reduced to compensate for other capital costs imposed by the village with respect to land development to provide or pay for public facilities including special assessments, special charges, land dedications

or fees in lieu of land dedications under Wis. Stats. ch. 236, or any other items of value.

- (5) Shall be reduced to compensate for monies received from the federal or state government specifically to provide for the public facilities for which the impact fees are imposed.
- (6) May not include amounts necessary to address existing deficiencies in public facilities.
- (7) Shall be payable by any person or entity that constructs, creates or modifies any improvement to real property that creates additional residential dwelling units within the village, or that results in nonresidential uses that create a need for new, expanded or improved public facilities within the village before a building permit may be issued, or other required approvals may be given by the village.
- (8) References hereinabove to public facilities shall be deemed to refer to the following to the extent that their inclusion is permitted under Wis. Stats. § 66.0617: Public park land areas with attendant improvements, the village law enforcement system, including structural improvements and/or new buildings, village fire and rescue facilities, including structural improvements and new buildings, Mount Pleasant Transportation Capital Improvements and capital improvements to the Mount Pleasant Stormwater Facilities.

(Ord. No. 3-2007, § 1(91-3), 3-12-2007)

#### **Sec. 30-54. Amount.**

(a) The amount of an impact fee imposed hereunder may be automatically increased for inflation, but no such automatic increase may be effective unless reviewed at least every three years after the first such increase. In no case shall the adjusted amount be greater than the maximum fee identified in the applicable study.

(b) The impact fees are adopted in the following amounts or each residential equivalency unit (REU):

- (1) Village park system impact fee . . . . . \$1,100.00
- (2) Village law enforcement system impact fees . . . . . 250.00
- (3) Village fire and rescue system impact fees . . . . . 400.00
- (4) Village transportation system impact fees . . . . . 750.00
- (5) Village stormwater system impact fees:

a. Hoods creek . . . . \$800.00

b. Pike river . . . . 600.00

(c) *Imposition:*

(1) *Residential development.*

a. Each impact fee shall be imposed on a residential equivalent unit (REU) basis with each single family residential unit, whether located within a one family, multi-family, condominium, cooperative, rental, or owner occupied unit, constituting one such REU. A residential unit is defined as any individual living unit which has, within the unit, at least an individual lockable entrance/exit, a kitchen that includes a cooking appliance (consisting of an appliance with burners and an ove[n] and/or a microwave of at least 1,000 watts), an individual bathroom which contains a shower and/or bathtub, and a sleeping/living area. One residence shall equal one REU and the impact fee shall be imposed upon every residence in the corresponding study area.

b. Notwithstanding the above:

i. Facilities such as nursing homes, and facilities such as community based residential care facilities (CBRF's) or residential care apartment complexes (RCAC's), as defined by Statute, whether for profit or not for profit, which include living space for five or more patients or residents and are intended for long-term or permanent residential purposes, are classified as nonresidential, commercial businesses and shall pay impact fees as though they are nonresidential development under subsection (2).

(2) *Nonresidential development.*

a. Nonresidential development is defined as commercial, business, industrial, institutional and any other use which is not defined as residential under subsection (1) above.

b. The public park system impact fee shall not be imposed on nonresidential development as nonresidential development does not ordinarily generate a need for these facilities.

c. The law enforcement system impact fee, the fire and rescue system impact fee, the transportation impact fee and the stormwater

impact fee shall be imposed on nonresidential development. These fees will be charged on an (REU) basis, and the number of REU's to be charged will be determined in accordance with the Needs Study by a calculation of the size of the alteration or new development. For each new nonresidential development the size of the structure/building, parking area and sole use stormwater detention area shall be calculated. The number of acres shall be determined and multiplied by a factor of four. This figure shall represent the number of nonresidential REU's for a determination of the total impact fee. In the case of an alteration of an existing nonresidential development, the above formula shall be applied only as to the area to be altered. Resurfacing, etc. or repaving an existing parking lot shall not trigger an impact fee.

- (3) In certain cases, the village may adjust the number of REU's assigned, or the impact fee imposed, based upon satisfactory evidence from the developer that such an adjustment is justified, or because of contribution to the cost of public improvements or other funding.

(Ord. No. 3-2007, § 1(91.4), 3-12-2007)

#### **Sec. 30-55. Payment.**

All impact fees shall become due and payable upon application for a building permit.  
(Ord. No. 3-2007, § 1(91-4), 3-12-2007)

#### **Sec. 30-56. Low cost housing.**

No exemption or reduction in the amount of said fee shall be made on land development that provides for low cost housing.  
(Ord. No. 3-2007, § 1(91-5), 3-12-2007)

#### **Sec. 30-57. Separate fund established.**

There are hereby established separate impact fee funds for the public park system, law enforcement system, fire and rescue system improvements, transportation system, and stormwater improvements all within the village. Each such fund shall be placed in a segregated, interest bearing account and shall be accounted for separately from all other funds of the village. Further, the stormwater impact fee fund shall have two segregated accounts, (separate but within the fund) one for the Pike River Watershed and one for the Hoods Creek Watershed. Revenues from said funds, including impact fee revenues and interest earned on impact fee revenues may be expended only for the type of capital costs for which the impact fees were imposed.  
(Ord. No. 3-2007, § 1(91-6), 3-12-2007)

### **Sec. 30-58. Refund of impact fees.**

Impact fees that are imposed and collected by the Village but which are not used within a reasonable time period after they are collected, shall be refunded to the current owner of the property that was subject to the fee. The Village hereby determines that a reasonable time period for improvements shall be considered as follows unless such time periods are otherwise extended, or allowed to be extended, by authority under Sec. 66.0617, Wis. Stat., and in such case the maximum allowable under Sec. 66.0617, Wis. Stat.:

- (1) Public park land development: Ten years
- (2) Fire and rescue systems: Ten years
- (3) Law enforcement system: Ten years
- (4) Transportation systems: Ten years
- (5) Stormwater systems: Ten years

Such time periods shall be in effect for impact fees collected on or after the effective date of the original ordinance of July 1, 2007 in accordance with Sec. 66.0617, Wis. Stat.

(Ord. No. 3-2007, § 1(91-7), 3-12-2007)

### **Sec. 30-59. Exemptions**

The following shall be exempted from payment of impact fees herein provided:

*Nonresidential development.* No impact fees shall be due for improvements and alterations to a nonresidential development that does not increase the building size or footprint and/or the size of the impervious surface parking lot. Any additions to a nonresidential development (the building/structure, parking lot, storage area and sole use stormwater detention facilities shall pay impact fees as set forth above.

(Ord. No. 3-2007, § 1(91-8), 3-12-2007)

### **Sec. 30-60. Violation and penalties.**

Any person violating any provision of this article shall be subject to the uniform penalty provisions or any other legal remedy available according to law, including but not limited to, a forfeiture of \$500.00 for each day of any violation.

(Ord. No. 1(91.9), 3-12-2007)

### **Sec. 30-61. Appeal.**

Any person upon whom an impact fee is imposed has the right to appeal the amount, collection, or use of the impact fee to the village board of the village. The procedure shall be as

follows:

- (1) Any person appealing the amount, collection, or use of the impact fee (appellant) shall submit a letter or petition to the village clerk describing the nature of the appeal and providing any supporting documentation therewith.
- (2) The clerk shall present the appeal letter or petition to the finance committee for its recommendation to the village board. The clerk shall notify the appellant in writing of the time and place of the finance committee meeting at which time the appellant shall be given an opportunity to present additional information in support of the appeal. Within ten days following the hearing, the finance committee shall make its written recommendation to the village board. The village board shall thereafter, at a subsequent meeting upon written notice to appellant, consider said recommendation and make a determination thereon. The appellant shall be notified in writing as to the village board's decision.
- (3) The appellant shall thereafter have a further right within 60 days to request and cause the village board of the village to conduct a formal hearing of the contest within a reasonable time following said request.

(Ord. No. 3-2007, § 1(91.10), 3-12-2007)

**Chapters 31--33**

**RESERVED**

## Chapter 34

### FIRE PREVENTION AND PROTECTION\*

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\* **Cross References:** Emergency government, ch. 26; performance standards for fire and explosive hazards, § 90-963.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
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Sec. 34-2.	Addition ordinances and amendments.		
Sec. 34-3.	Fire drills; doors and exits required to be unlocked during school hours.		
Sec. 34-4.	Records.		
Sec. 34-5.	Annual report.		
Sec. 34-6.	Open fires.		
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Sec. 34-8.	Smoke.		
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Sec. 34-249.	Intentional false alarms.
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**ARTICLE I.**  
**IN GENERAL**

**Sec. 34-1. Fire prevention codes and statutes adopted.**

(a) For the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion arising from the storage, handling and use of hazardous substances, materials and devices and from conditions hazardous to life and property in the use or occupancy of buildings or premises, and the safeguarding of firefighting personnel as it relates to job requirements, duties, medical and physical conditions, the following orders, rules and regulations of the department of commerce, all of which are set forth in the Wisconsin Administrative Code as amended from time to time, and the Wisconsin Statutes that may apply to the fire service, and the Codes and Standards and Recommended guides as set forth by the National Fire Protection Association as amended from time to time amended, and as they apply to the fire service, are incorporated in this section by reference and adopted as part of this section:

- (1) Wis. Admin. Code ch. Comm. 7, Explosives and Blasting Agents.
- (2) Wis. Admin. Code ch. Comm. 10, Flammable and Combustible Liquids.
- (3) Wis. Admin. Code ch. Comm. 14, Fire Prevention.
- (4) Wis. Admin. Code ch. Comm. 15, Cleaning and Dying.
- (5) Wis. Admin. Code ch. Comm. 30, Fire Department Health and Safety Standards.
- (6) Wis. Admin. Code ch. Comm. 43, Anhydrous Ammonia Code.
- (7) Wis. Admin. Code ch. Comm. 66, Multifamily Dwelling: (a) Wis. Stats. § 101.14(4m)(d).
- (8) NFPA Codes and Standards, Volumes 1--12.

(b) Whenever the provisions of the codes or statutes set forth in subsection (a) of this section conflict, the stricter interpretation shall apply.  
(Code 1993, § 5.15)

**Sec. 34-2. Addition ordinances and amendments.**

The chief of the fire department shall investigate and recommend to the village board such additional ordinances or amendments to existing ordinances as he may deem necessary for safeguarding life and property against fire.  
(Code 1993, § 5.18)

### **Sec. 34-3. Fire drills; doors and exits required to be unlocked during school hours.**

The chief of the fire department shall require the person having direct charge of any public, private or parochial school or educational institution to, at least once a month, without previous warning, drill all pupils in the proper method of departure from the building in case of fire, as required by Wis. Stats. § 118.07(2), and to keep all doors and exits unlocked during school hours.

(Code 1993, § 5.23)

### **Sec. 34-4. Records.**

The fire chief shall keep a record of all fires and all of the facts concerning fires investigated by the fire investigation unit.

(Code 1993, § 5.24)

### **Sec. 34-5. Annual report.**

The annual report of the fire department shall be made on or before April 1 and transmitted to the village board. Such report shall contain all proceedings under this chapter, with such statistics as the fire chief may wish to include. The fire chief shall also recommend any amendments to this chapter which, in his judgment, shall be desirable.

(Code 1993, § 5.25)

### **Sec. 34-6. Open fires.**

- (a) All open fires are prohibited in the village, except:
  - (1) Outdoor fires for cooking and recreation. Recreational fires shall not consist of plastic, rubber, asphalt, oily substances or any materials which will create dense smoke.
  - (2) Back fires to control forest fires.
  - (3) Fires set to manage wildlife habitat and forest management as prescribed by governmental agencies.
  - (4) Fires set for the practice and instruction of firefighters.
  - (5) Burning of explosives or dangerous combustible wastes for which there is no other means of disposal.
  - (6) Agricultural burning and cropland management when other alternatives are not feasible. Farmers may burn brush and weeds and have fires for cropland management as well as for insect and rodent control.

- (7) Open fires on the property of persons owning a one-family or two-family residence on that property. The fire shall be set by the owner of the property or with his consent. The fire shall not burn wet, combustible rubbish, garbage, oily substances, asphalt, plastics, rubber products or any substances which create dense, black smoke upon combustion. The fire shall not be less than ten feet from the property line, nor be permitted to burn within 30 feet of the nearest wall of any building or wooden structure. Fires are not allowed in any street or alley.

(b) All exceptions set forth in subsections (a)(3)--(7) of this section shall be permitted only between the hours of 12:00 noon and 5:00 p.m., and require permission from the fire department.

(c) On days that the fire department is informed that atmospheric conditions are unacceptable for burning, permission to burn will not be granted.

(d) Every person who kindles or starts an open fire shall supervise, or cause to have supervised, the burning of such open fire until such fire is completely extinguished.

(e) All businesses (except farms), churches, schools, apartments and municipalities shall arrange for disposal of their solid waste by a method other than open burning.

(f) The burning of construction debris, such as wood scraps, shingles, insulation, etc., in or adjacent to a subdivision in the village is prohibited, regardless of whether such burning is done by the property owner, contractor or other person responsible for the site.  
(Code 1993, § 5.26)

#### **Sec. 34-7. Contained fires.**

(a) No person shall kindle or start a fire, or permit such fire to burn within 15 feet of the nearest wall of any building or wooden structure, or in any street or alley. Any fire kindled, started or permitted to burn within 30 feet of the nearest wall of any building or wooden structure shall be contained in a substantial burner, constructed of metal, concrete or brick, which burner shall be screened or covered to prevent the escape of burning embers. No person shall kindle or start a fire, or permit such fire to burn in any such burner, other than between the hours of 12:00 noon and 5:00 p.m. Such fires may not burn plastics, rubber, asphalt, oily substances or any materials that will create dense smoke or cause a nuisance. Where a business is operated from the home or an attached structure, no business refuse may be burned under any conditions.

(b) No open flame candles or open flame fixtures shall be used for lighting or decorative purposes in any building or structure used for public amusement, recreation or dining purposes unless:

- (1) They are well guarded on all sides.

- (2) The tip of the flame does not come closer than one inch from the top of the container, which may be accomplished by the use of a glass chimney or glass container partly filled with wax and a wick.
- (3) All flammable decorative materials shall be flameproofed and renewed of flameproofing treatments as often as necessary to maintain the flameproof effect. In accordance with NFPA 701 (Decorations Flameproofing), such retreatment shall be at intervals of not less than six months, nor more than one year.

(Code 1993, § 5.27)

#### **Sec. 34-8. Smoke.**

No person shall cause or permit the emission of smoke from burning material in a manner that will cause dense smoke or a nuisance. Smokey fires or any fire which creates a nuisance for neighbors is prohibited.

(Code 1993, § 5.29)

#### **Sec. 34-9. Storage of flammable materials.**

(a) The following items shall not be stored in basements or storage bins of apartments or other multifamily dwellings in the village:

- (1) Charcoal, except in a metal container equipped with a metal cover.
- (2) Oily rags or dust mops.
- (3) Flammable liquids of any nature, other than motor oils or similar oils in metal quart containers.
- (4) Bottled gases, propane, acetylene, oxygen or other substances of a similar nature.
- (5) Gasoline motors and power equipment, such as outboard motors, power lawn equipment, snow blowers, snow plows, motor bikes, motorcycles, etc., may be permitted if the chief of the fire department grants permission to store gasoline powered equipment, provided, the following is done:
  - a. Sparkplugs are removed.
  - b. Battery is disconnected.
  - c. Fuel tank is completely drained.
  - d. Sparkplug opening is covered with tape.

(b) For purposes of this section, the term "multifamily dwelling" means a building, or portion thereof, designed for, and occupied by, more than two families.  
(Code 1993, § 5.30)

**Sec. 34-10. Violations; penalties.**

Unless otherwise provided, any person who shall violate any provision of this chapter, provide false or misleading information for permits or applications, or occupy a structure that is not compliant with this chapter, shall be subject to a penalty as provided in section 1-15.  
(Code 1993, § 5.35; Ord. No. 10-03, § 5.35, 9-22-2003)

**Secs. 34-11--34-40. Reserved.**

**ARTICLE II.**

**FIRE DEPARTMENT**

**DIVISION 1.**

**GENERALLY**

**Sec. 34-41. Official fire department.**

The Mount Pleasant Fire Department is recognized as the official fire department of the village. The fire department shall have the duty and authority of firefighting, providing emergency care of the sick, disabled or injured, and the prevention of fires within the village, and shall be organized and governed in accordance with the provisions of this chapter.  
(Code 1993, § 5.01)

**Sec. 34-42. Membership.**

The fire department shall consist of a chief and such subordinate officers and members as the village board deems necessary for the operation of the fire department. All personnel shall be appointed in accordance with the civil service provisions of chapter 2 of this Code.  
(Code 1993, § 5.02)

**Sec. 34-43. Responsibility, authority and requirements of fire chief.**

- (a) The fire chief shall have the following authority:
  - (1) Plan, organize and direct all activities of the fire department.
  - (2) Advise and make recommendations to the village board for the most effective operation of the fire department.

- (3) Perform related work, as required.
- (b) The fire chief shall have the following responsibilities:
  - (1) Plan, organize and supervise the work of the fire department according to the rules and regulations of the fire department.
  - (2) Enforce all fire prevention, fire protection and rescue laws and ordinances of the state, county and village and as directed by the village board.
  - (3) Answer fire alarms and command the handling of firefighting equipment on his shift and all major fire alarms that occur on other shifts, if available.
  - (4) Develop policies, procedures and long range plans for keeping the fire department updated.
  - (5) Attend schools and demonstrations on the latest fire suppression and first aid methods and equipment.
  - (6) Conduct and supervise training sessions to maintain a high degree of efficiency within the fire department and local industrial firms.
  - (7) Perform necessary public relations and initiate activities to generate citizen participation.
  - (8) Supervise fire inspections of buildings in order to maintain a current rating according to state fire regulations.
  - (9) Maintain records and prepare reports, including an annual budget.
- (c) The fire chief shall have the following essential knowledge and abilities:
  - (1) Advanced knowledge of laws, rules, regulations and general statutes relating to fire prevention and suppression.
  - (2) Be well versed in all of the facts of fire prevention, fire protection, firefighting methods and advanced knowledge of the causes of fires.
  - (3) Ability to assign and supervise men, and participate in and supervise firefighting activities.
  - (4) Ability to establish and maintain effective working and public relationships.
  - (5) Ability to maintain records and prepare reports.

(d) The fire chief shall have the following desirable education, training and experience:

- (1) Graduation from a four-year college or university with major course work in fire, public or business administration or a related field.
- (2) Special training in modern firefighting methods and administration.
- (3) A valid state driver's license.

(Code 1993, § 5.03)

#### **Sec. 34-44. Report instructions and forms.**

The fire chief shall prepare instructions for the chief inspector and his assistants, and forms for their use in the reports required by this chapter.

(Code 1993, § 5.19)

#### **Sec. 34-45. Investigations.**

(a) *Authority.* Authority to conduct investigations is given to the fire chief in Wis. Stats. § 165.55(1). The chief of the fire department or company of every city, village and town in which a fire department or company exists shall investigate, or cause to be investigated, the cause, origin and circumstance of every fire occurring in his city, village or town by which property has been destroyed or damaged when the damage exceeds \$500.00, and fires of unknown origin he shall especially investigate, whether the fire was the result of negligence, accident or design.

(b) *Fires resulting in property destruction or damage.* The fire department shall investigate the cause, origin and circumstance of every fire occurring in the village by which property has been destroyed or damaged, and so far as possible, shall determine whether the fire is the result of carelessness or design. Such investigations shall begin immediately upon occurrence of such fire, if it appears to the fire investigator making such investigation that such fire is of suspicious origin, and the law enforcement agency having jurisdiction shall be notified. All physical evidence at the scene of such fires shall be guarded and maintained until collected by proper authorities as evidence for prosecution of the case. Other agencies, as deemed necessary by the fire chief, may be notified for assistance to supplement the investigation.

(Code 1993, § 5.20)

#### **Sec. 34-46. Assistant fire chief.**

(a) The assistant fire chief shall:

- (1) Be under direction to assist in the organizing, planning, directing and control of all activities of the fire department.

- (2) Be responsible for supervising and commanding all fire department activities in the absence of the fire chief.
  - (3) Perform related work, as required.
- (b) The assistant fire chief shall have the following responsibilities:
  - (1) Assist in the planning, organizing and supervision of the work of the fire department in compliance with the rules and regulations of the fire department.
  - (2) Assist in the enforcement of all fire prevention, fire protection and rescue laws and ordinances of the state, county and village.
  - (3) Answer fire alarms and command the handling of fire department equipment, in the absence of the fire chief.
  - (4) Conduct or assist in handling fire department training sessions.
  - (5) Attend schools and demonstrations on the latest fire suppression methods, first aid methods and equipment.
  - (6) Assist in the development of policies, procedures and long range plans for keeping the fire department updated.
  - (7) Perform necessary public relations and assist in initiating activities to generate citizen participation.
  - (8) Maintain records, prepare reports and assist in the preparation of an annual budget.
- (c) The assistant fire chief shall have the following essential knowledge and abilities;
  - (1) Advanced knowledge of the laws, rules, regulations and general statutes relating to fire prevention and suppression.
  - (2) Advanced knowledge of the causes of fires and fire suppression methods.
  - (3) Thorough knowledge of first aid and rescue work.
  - (4) Ability to assign and supervise firefighting activities.
  - (5) Ability to secure respect and cooperation.

(6) Ability to establish and maintain effective working and public relationships.

(7) Ability to maintain records and prepare reports.

(d) The assistant fire chief shall have the following desired education, training and experience:

(1) High school graduate.

(2) Three or more years of responsible experience above the rank of firefighter.

(3) Special training in modern firefighting methods and administration.

(4) Valid state driver's license.

(Code 1993, § 5.04)

**Cross References:** Officers and employees, § 2-81 et seq.

#### **Sec. 34-47. Assistant chief of support services.**

(a) In general.

(1) A support services in the fire department is established, which shall be operated under the supervision of the fire chief.

(2) The fire chief shall designate an officer or member of the fire department as assistant chief of support services, who shall hold such office at the pleasure of the fire chief.

(3) The assistant fire chief may designate such number of fire inspectors as shall be authorized by the fire chief from time to time.

(b) The assistant chief of support services shall have the same responsibilities and authority as assistant fire chiefs as set forth in section 34-46 and, in addition, shall enforce all laws and ordinances of the state, county and village, covering the:

(1) Prevention of fires.

(2) Storage and use of explosives and flammables.

(3) Installation and maintenance of automatic and other fire alarm systems and fire extinguishing equipment.

(4) Maintenance and regulation of fire escapes.

- (5) Means and adequacy of exits, in case of fire, from factories, schools, hotels, lodginghouses, asylums, hospitals, churches, halls, theaters, amphitheaters and all other places in which numbers of persons work, live or congregate, from time to time, for any purpose.
- (6) Conduct and supervision of training sessions to maintain a high degree of efficiency within the support services.
- (7) Performance of necessary public relations and initiation of activities to generate citizen participation.
- (8) Maintenance of a written record card of each property inspected, which shall conform to the requirements of the fire department.
- (9) Making of recommendations for, and develop of, fire safety legislation or regulations, as may be necessary.
- (10) Coordination of the activities of the support services with other agencies of the village.
- (11) Perform related work as required by the fire chief.

(c) The assistant chief of support services shall have the following essential knowledge and abilities:

- (1) Considerable knowledge of laws, rules, regulations and general statutes relating to fire prevention and suppression.
- (2) Good knowledge of the causes of fires, suppression methods and equipment.
- (3) Ability to assign and supervise men, and participate in and supervise firefighting activities.
- (4) Ability to establish and maintain effective working and public relationships.
- (5) Ability to maintain records and prepare reports.
- (6) Ability to supervise personnel and evaluate skills relative to fire prevention and fire education.

(d) The assistant chief of support services shall have the following desired education, training and experience:

- (1) High school graduate.
- (2) Three or more years of responsible experience above rank of firefighter.
- (3) Special training in modern firefighting methods and administration.
- (4) Valid state driver's license.
- (5) Experience in fire inspections.

(Code 1993, § 5.05)

**Cross References:** Officers and employees, § 2-81 et seq.

#### **Sec. 34-48. Lieutenant.**

- (a) The lieutenant of the fire department shall:
  - (1) Be under the general supervision to assist in the planning and direction of all activities of the fire department.
  - (2) Perform related and miscellaneous work, as required.
- (b) The lieutenant shall have the following responsibilities:
  - (1) Assist in planning and supervising the work of the fire department in accordance with the rules and regulations of the fire department.
  - (2) Assist in the development of policies, procedures and long range plans for the efficient operation of the fire department.
  - (3) Attend schools and demonstrations on the latest first aid and fire suppression methods and equipment.
  - (4) Conduct and supervise, when required, training sessions to maintain a high degree of efficiency within the fire department and local industrial firms.
  - (5) Answer fire alarms and command the handling of first aid and firefighting equipment on his shift in the fire chief's absence.
  - (6) Assist the fire chief in the preparation of reports, and maintain a high degree of efficiency within the fire department and local industrial firms.
- (c) The lieutenant shall have the following essential knowledge and abilities:
  - (1) Considerable knowledge of laws, rules, regulations and general statutes relating to fire prevention and suppression.

- (2) Good knowledge of first aid, rescue work and causes of fires, suppression methods and equipment.
  - (3) Ability to assign and supervise men, and participate in and supervise firefighting activities.
  - (4) Ability to establish and maintain effective working and public relationships.
  - (5) Ability to maintain records and prepare reports.
- (d) The lieutenant shall have the followed desired education, training and experience:
- (1) High school graduate.
  - (2) Five or more years of responsible experience at the rank of firefighter.
  - (3) Special training in modern firefighting methods and administration.
  - (4) Valid state driver's license.
  - (5) Satisfactorily pass a written test and oral interview for the position of lieutenant.

(Code 1993, § 5.06)

**Cross References:** Officers and employees, § 2-81 et seq.

#### **Sec. 34-49. Fire department property.**

(a) *Control.* The fire chief shall have control of all apparatus used by the fire department and shall be responsible for the proper maintenance thereof. Emergency repairs of such apparatus may be authorized by the fire chief.

(b) *Use.* No apparatus shall be used for any purpose, except for official fire department use within the limits of the village or in training therefor, except pursuant to an agreement approved by the village board with other municipalities with whom agreements have been executed or with the prior approval of the village board.

(c) *Damage.* No person shall willfully injure, in any manner, any hose, hydrant or fire apparatus belonging to the village and no vehicle, without the consent of the fire department official in command, shall be driven over an unprotected hose of the fire department when such hose is laid down on any street, private driveway or other place in order to be used at any fire or alarm of fire.

(Code 1993, § 5.09)

### **Sec. 34-50. Police power.**

(a) *Vestment.* The fire chief and assistants or officers in command at any fire are vested with full and complete police authority at fires. Any officer of the fire department may cause the arrest of any person failing to give the right-of-way to the fire department in responding to a fire.

(b) *Fire safety limits.* The fire chief may prescribe certain limits in the vicinity of a fire within which no person, except firefighters, police officers and persons admitted by order of any officer of the fire department, shall be permitted to come. The fire chief shall have the power to cause the removal of any property whenever it shall become necessary for the preservation of such property from fire, to prevent the spread of fire or to protect the adjoining property, and during the progress of any fire, he shall have the power to order the removal or destruction of any property which is necessary to prevent the further spread of the fire. He shall also have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where such wires or facilities impede the work of the fire department during the progress of a fire.

(c) *Authority to enter adjacent property.* Any firefighter, while acting under the direction of the fire chief or other officer in command, shall enter upon the premises adjacent to, or in the vicinity of, any building or other property then on fire for the purpose of extinguishing such fire, and in the case of any person hindering such entry, or resisting or obstructing any firefighter in the discharge of his duty, as provided for in this subsection, the offending person shall be deemed guilty of resisting firefighters in the discharge of their duty.  
(Code 1993, § 5.10)

### **Sec. 34-51. Appropriation of funds.**

The village board shall appropriate funds to provide for operation and for such apparatus and equipment for the use of the fire department as it may deem expedient and necessary to maintain efficient and proper protection of life and property from fire.  
(Code 1993, § 5.11)

### **Sec. 34-52. Emergency ambulance services.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Advance life support (ALS)* means emergency medical care provided by emergency medical technicians-paramedics that requires the use of life sustaining equipment, utilizing an ambulance equipped with a radio or constant telephone contact with a physician/hospital.

*Advanced life support (ALS) without transport* means emergency medical care provided by emergency medical technicians-paramedics that requires the use of life sustaining equipment, with a radio or constant telephone contact with a physician/hospital, without transport.

*Basic life support (BLS)* means emergency first aid services which do not meet the ALS criteria.

*Disposable medical supplies* means equipment designed to have a one-time use, and then be properly disposed of, to aid in the prevention and spread of infectious diseases.

*Emergency medical technician (EMT BASIC)* means a person licensed to provide basic life support and who is properly trained to transport sick, disabled and injured individuals. As defined by Wis. Stats. Admin. HSS 110 Rule and/or the Fire Department's medical direction. Training includes, but is not limited to:

- (1) Basic assessment with basic cardiac life support, CPR (healthcare provider).
- (2) Anatomy and physiology.
- (3) Treatment of bleeding and shock.
- (4) Use of pneumatic shock garment.
- (5) Soft tissue injuries.
- (6) Fractures and dislocations.
- (7) Emergency childbirth.
- (8) Burns and hazardous materials.
- (9) Automatic defibrillation.

*Admin. HSS 112 Rule*, means a person who has more extensive training than the EMT-BASIC and, under medical direction, provides, but is not limited to:

- (1) Airway management.
- (2) Starting and administration of intravenous fluids.
- (3) Advanced rescue, emergency care and resuscitation.
- (4) Cardiac rhythm interpretation and defibrillation.
- (5) Advanced assessment.
- (6) Insertion of advanced airways.
- (7) Parenteral injections.

- (8) Treatment of shocks and burns.
- (9) Administration of emergency medications.

*Paramedic-advanced life support intercepts* means, when it is necessary for a patient that is being transported by a nonparamedic ambulance service, to require the services of a paramedic-advanced life support ambulance service. This includes, when necessary, for two ambulance services to be involved in the transport of a patient, when either the patient is transferred from the nonparamedic ambulance to the paramedic ambulance or where the paramedic staff and/or equipment board the nonparamedic ambulance.

(b) *Provision of service.* The village provides emergency ambulance service to persons needing emergency medical attention after the sudden onset of a medical condition or trauma manifesting itself by acute symptoms of such severity, including severe pain, that the absence of immediate attention could reasonably be expected to result in placing the patient's health in serious jeopardy, or the serious impairment of bodily functions, or serious dysfunction of any bodily organ or part.

(c) *Fees.*

- (1) *Applicability; exception.* Every person receiving emergency service from the village by the use of its emergency equipment, medical drugs and disposable medical equipment in attending to and/or transporting such person from the scene of an incident to an emergency hospital, shall pay for such service if rendered within the village, unless such person is a child who is under the direction of his school of attendance or is a participant in a recreation activity sponsored by the village.
- (2) *Outlying areas with a mutual aid agreement.* In all cases where the emergency service of the village is summoned in response to an emergency call in areas outside the village where a mutual aid agreement does exist, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment use in attending at the scene of the incident and transporting such person to an emergency hospital shall be charged for such service.
- (3) *Outlying areas without a mutual aid agreement.* In all cases where the emergency service of the village is summoned in response to an emergency call in areas outside of the village where no mutual aid agreement exists, every person receiving such emergency service, the administration of medical drugs and disposable medical equipment used in attending at the scene of the incident and transporting such person to a private or emergency hospital shall be charged for such service.
- (4) *Paramedic-advanced life support intercepts.* In all cases where paramedic-advanced life support intercept service is requested from the village by a

municipal ambulance service or rescue squad that does not provide a paramedic level of care, that municipality or rescue squad shall be billed for the paramedic service provided.

- (5) *Schedule of fees for service, transfer service and disposable medical equipment.* The following fees shall be applicable for ambulance service, transfer service and disposal medical equipment:

- a. ALS, transport (nonresident) . . . . . \$650.00
- b. ALS, transport (resident) . . . . . 600.00
- c. ALS, nontransport . . . . . 300.00
- d. BLS, transport (nonresident) . . . . . 500.00
- e. BLS, transport (resident) . . . . . 450.00
- f. Extra ambulance attendant, 250 pounds or combative . . . . . 100.00
- g. Disposable supplies . . . . . 50.00
- h. Mileage, per loaded mile . . . . . 14.00
- i. IV and supplies . . . . . 65.00
- j. Oxygen . . . . . 60.00
- k. Intubation . . . . . 65.00
- l. Defibrillation . . . . . 60.00
- m. EKG, 3-lead . . . . . 30.00
- n. EKG, 12-lead . . . . . 30.00
- o. Percutaneous cricothyrotomy (under Adv. Airway) . . . . . 135.00
- p. OB kit/burn kit . . . . . 15.00
- q. Pericardiocentesis . . . . . 86.00
- r. IO . . . . . 200.00
- s. Rescue Pod (Adv. Airway) . . . . . 110.00

- t. Mutual aid use of autopulse . . . . . 225.00
- u. If Capnography used add \$50.00 to base rate. If Autopulse used add \$175.00 to base rate.
- v. If no transport is given and no ALS (Advanced Life Support) the following be charged:
  - 0--3 calls within one year (January 1 through December 31) . . . . . No charge
  - 4--6 calls within one year (January 1 through December 31) . . . . . 75.00
  - 7 plus calls within one year (January 1 through December 31) . . . . . 150.00
- w. If no transport is given and BLS skills are provided fee is . . . . . 200.00

(6) *Medications used in ALS and BLS services.* The following fees are established for medications used in ALS and BLS services. The fire chief shall periodically, no less than once per calendar year, report such fees to the finance department, which may modify such fees. Such fees are as stated as of the date of adoption of the ordinance from which this section is derived, until revised:

- a. Adensine, six mg . . . . . \$40.00
- b. Albuterol/Ventolin/Proventil, 0.5 percent ml by nebulizer . . 25.00
- c. Amyl Nitrate, capsule . . . . . 25.00
- d. Ativan . . . . . 50.00
- e. Atropine, one mg/ten ml syringe . . . . . 25.00
- f. Benadryl/Diphenhydramine, 50 mg syringe . . . . . 25.00
- g. Bretylium, 500 mg . . . . . 25.00
- h. Calcium Chloride, one gm/ten ml syringe . . . . . 25.00
- i. Cardizem, per syringe . . . . . 26.50

- j. Cordarone/Amiodarone, 300 mg . . . . . 200.00
- k. Dextrose/D5W, 500 ml . . . . . 25.00
- l. Dextrose/D25/syringe . . . . . 25.00
- m. Dextrose/D50/syringe . . . . . 25.00
- n. Diazepam/Valium up to five mg . . . . . 175.00
- o. Dopamine/Intropine, 200 mg . . . . . 26.00
- p. Epinephrine/Adrenalin, 1:1,000 . . . . . 25.00
- q. Epinephrine/Adrenalin, 1:10,000, one gm/ten ml syringe . . . 25.00
- r. Furosemide/Lasix, up to 20 mg . . . . . 25.00
- s. Geodon . . . . . 25.00
- t. Glucagon up to one mg . . . . . 70.00
- u. Isoproterenol bu inhalation 0.5 percent ml . . . . . 5.15
- v. Lidocaine drip and D5W, 500 cc . . . . . 25.00
- w. Lidocaine 50 ml . . . . . 25.00
- x. Magnesium Sulfate, up to ten mg . . . . . 25.00
- y. Midazolan, up to one mg . . . . . 25.00
- z. Morphine Sulfate, up to ten mg . . . . . 25.00
- aa. Narcan/Naloxone . . . . . 30.00
- bb. Nitro sublingual, each tab/spray/dose . . . . . 25.00
- cc. Normal saline/capped IV, one--five ml . . . . . 25.00
- dd. Normal saline 251--500 ml . . . . . 25.00
- ee. Normal saline 501--1,000 ml . . . . . 25.00
- ff. Procainamide, one gram . . . . . 25.00

- gg. Sodium Bicarbonate . . . . . 25.00
- hh. Sodium Chloride . . . . . 25.00
- ii. Zofran . . . . . 25.00

(Ord. No. 5-2002, § 5.12(10, 6-10-2002; Ord. No. 4-2007, 4-23-2007; Ord. No. 12-2008, 9-8-2008)

**Sec. 34-53. Charges when responding to illegal fires.**

Whenever the fire department responds to a fire call determined to be in violation of sections 34-6, 34-7(a), 34-8 and the definition of the terms "garbage" and "refuse" in section 34-121, it may collect the actual costs of control and extinguishment from the responsible party, and in default of payment, may proceed to a court of competent jurisdiction to collect such costs as in any other civil action.

(Code 1993, § 5.14)

**Sec. 34-54. Bureau of fire prevention.**

(a) *Established; inspections.*

- (1) A bureau of fire prevention in the fire department is established, which shall be operated under the supervision of the chief of the fire department.
- (2) The chief of the fire department shall designate an officer or member of the fire department as chief inspector of the bureau of fire prevention, who shall hold such office at the pleasure of the chief of the fire department.
- (3) The chief of the fire department may also designate such number of assistant inspectors as shall be authorized from time to time by the village board.

(b) *Duties.* The officers of the bureau of fire prevention shall enforce all laws and ordinances of the state, county and village pertaining to the:

- (1) Prevention of fires.
- (2) Storing and use of explosives, flammables, combustibles, hazardous materials, extremely hazardous substances or toxic gases.
- (3) Installation and maintenance of automatic fire alarm systems, fire extinguishment equipment and smoke detection devices.
- (4) Maintenance of exitways, including hallways, stairways and aisles.

- (5) Investigation of the causes, origins and circumstances of fires and explosions, and of fire related deaths and injuries.
- (6) Instruction of all firefighters in their inspection duties.
- (7) Making available of public education to interested citizens and promoting sound fire prevention practices.

Such officers shall have such other powers and perform such other duties as are set forth in other sections of this chapter, and as may be conferred and imposed by law from time to time. The chief of the fire department may delegate any of his powers or duties under this chapter to the assistant chief of fire prevention.

#### **Sec. 34-55. Fire inspector.**

(a) *Duties.* The chief of the fire department shall hold the office of fire inspector, with the power to appoint one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the fire inspector.

(b) *Inspections.* The fire inspectors shall inspect, or cause to be inspected, as often as may be necessary, all buildings (except private dwellings), premises and thoroughfares within the village to correct any conditions liable to cause a fire or any violation of this chapter relating to fire hazards. The fire inspectors shall also investigate the storage and handling of explosives and flammable liquids within the village.

(c) *Hazards.* Whenever and wherever in the village any inspection by the fire chief or his deputies reveals a fire hazard, the fire chief or his deputies shall serve a notice, in writing, upon the owner of the property, giving the owner a reasonable time in which to remove the hazard.

(d) *Reports.* The fire chief shall keep a written record of each property inspected, which report shall conform to the requirements of the department of commerce.

(e) *Hindering and obstructing fire inspector.* No person shall hinder or obstruct the fire inspector in the performance of his duty or refuse to perform any lawful direction given by him.

(Code 1993, § 5.17)

**Cross References:** Officers and employees, § 2-81 et seq.

#### **Sec. 34-56. Fire inspections.**

(a) *Right of entry.*

- (1) The fire chief, the chief of the bureau of fire prevention, officers of the fire department or any inspector shall inspect, or cause to be inspected, as often as may be necessary, at all reasonable hours, enter any buildings, premises and public thoroughfares, except the interiors of private

premises, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violation of the provisions or intent of any ordinance affecting fire hazards.

- (2) The fire chief may obtain an administrative inspection warrant under statute, when necessary, in his opinion, for the purpose of making an inspection or investigation of any building or premises where the owner has refused admission to such building or premises.

(b) *Order to remove hazards.* Whenever any inspector shall find, in any building or upon any premises or other place, combustible or explosive matter, or hazardous, extremely hazardous or toxic materials which are situated so as to endanger property; or shall find obstructions to, or on, fire escapes, stairs, passageways, doors or windows, liable to interfere with operations of the fire department or egress of occupants in case of fire, the fire inspector shall order such dangerous conditions or materials to be removed or remedied in such a manner as may be specified.

(c) *Compliance of owner or occupant within reasonable period.* Any owner or occupant failing to comply with an order as set forth in subsection (b) of this section within a reasonable period after service of the order shall be liable to a penalty as provided in section 34-10.

(d) *Service of order.* The service of such order may be made upon the occupant of the premises to whom it is directed, either by personally delivering a copy of the order to such occupant or by delivering the order to and leaving the order with any adult person in charge of the premises, or putting the order in a conspicuous place on the door to the entrance of the premises or, if such owner is absent from the jurisdiction of the officer serving the order, by mailing such copy to the owner's last known post office address.

(e) *Order to install appliances.* The fire chief or officers of the bureau of fire prevention shall survey inspectable buildings and order required fire appliances to be installed.

(f) *Appeal of orders issued.* Any such order shall forthwith be complied with by the owner or occupant of such premises or building. If such order is made by the chief of the bureau of fire prevention or one of the inspectors, such owner or occupant may, within 24 hours, appeal to the chief, in writing, who shall review such order and file his decision thereon. Unless, by his authority, the order is revoked or modified, it shall remain in full force and be complied with within the time fixed in the order or decision of the chief.

(Code 1993, § 5.22)

**Sec. 34-57. Fire prevention inspections and fees.**

(a) Fees, based on occupancy classification:

1.	Public assembly	Per the annual fee schedule
2.	Education institutions	Per the annual fee schedule
3.	Institutional	Per the annual fee schedule
4.	Residential, multifamily (three units and up)	Per the annual fee schedule
5.	Stores, offices	Per the annual fee schedule
6.	Basic industry, utility, defense	Per the annual fee schedule
7.	Manufacturing	Per the annual fee schedule
8.	Storage, warehouse	Per the annual fee schedule
9.	Special, not classified	Per the annual fee schedule
10.	Compliance inspections for Wisconsin Health and Social Services community-based residential facilities (CBRF)	Per the annual fee schedule
11.	Single-family home	Per the annual fee schedule
12.	Multi-family homes	Per the annual fee schedule

(b) The annual fire prevention inspection fee shall constitute a special charge against the property under Wis. Stats. § 66.601(16), and shall be placed on the annual tax roll for collection as a special charge if unpaid by October 15. All proceedings related to the collection of real estate taxes shall apply.

(c) All buildings, structures and premises owned by the Village of Mount Pleasant, the Village of Sturtevant, the State of Wisconsin, and the United States Government shall be exempt from the fire prevention fee.  
(Ord. No. 9-2009, 6-22-2009)

**Secs. 34-58--34-80. Reserved.**

**DIVISION 2.**

**HAZARDOUS MATERIALS**

**Sec. 34-81. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Hazardous materials* means materials, not otherwise covered in this chapter, which are highly flammable, or which may react to cause fires or explosions, or which, by their presence, create or augment a fire explosion hazard, or which, because of their toxicity, flammability or

liability to explosion hazard, render firefighting abnormally dangerous or difficult; and flammable and combustible liquids which are chemically unstable and which may spontaneously form explosive compounds or undergo spontaneous reactions of explosive violence or with sufficient evolution of heat to be compressed gases, flammable solids, corrosive liquids, radioactive materials, oxidizing materials, potentially explosive chemicals, highly toxic materials and poisonous gases.

*Infectious agent* means a bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans, which is used, researched, produced or stored within or on the premises. (Code 1993, § 5.21(2)(a), (b))

**Cross References:** Definitions generally, § 1-2.

### **Sec. 34-82. Applicability.**

The provisions of this division shall apply to all persons using, researching, producing or storing hazardous materials and/or infectious agents on and after the effective date of the ordinance from which this division is derived.

(Code 1993, § 5.21(2))

### **Sec. 34-83. Notification of fire department.**

All persons using, researching or producing hazardous materials and/or infectious agents shall notify the fire department as prescribed by this division.

(Code 1993, § 5.21(1))

### **Sec. 34-84. Amount requiring license; fee.**

(a) No person shall store or handle the following without obtaining a license from the fire chief prior to such storing or handling:

- (1) More than 55 gallons of corrosive liquids;
- (2) More than 500 pounds of oxidizing materials;
- (3) More than 500 millicuries of radioactive materials;
- (4) More than 2,000 cubic feet of flammable compressed gas;
- (5) Ten pounds or more of organic peroxides;
- (6) Five hundred pounds or more of ammonium nitrate; or
- (7) Any amount of highly toxic material or poisonous gas.

(b) The license fee will be as set by the village board per calendar year, or portion thereof.

(Code 1993, § 5.21(3))

## **Sec. 34-85. General requirements.**

The following general requirements shall apply to the manufacture, storage, handling and use of hazardous materials:

- (1) The manufacture, storage, handling and use of hazardous chemicals shall be safeguarded with such protective facilities as public safety requires.
- (2) The fire chief may require the separation or isolation of any chemical that, in combination with other substances, may bring about a fire or explosion or may liberate a flammable or poisonous gas. The fire chief may require separation from other storage, occupancies or buildings when the quantity stored constitutes a material hazard.
- (3) Defective containers which permit leakage or spillage shall be disposed of or repaired in accordance with recognized safe practices. No spilled materials shall be allowed to accumulate on floors or shelves.
- (4) Where hazardous materials are kept for retail sale in containers or packages usual to the retail trade, storage shall be neat and orderly and shelves shall be of substantial construction.
- (5) Where specific requirements are not otherwise established, storage, handling and use of hazardous chemicals shall be in accordance with nationally recognized good practices.
- (6) Any person using, researching, producing and/or storing any hazardous or infectious materials shall provide to the fire department, in writing, the following information:
  - a. Address and location of where hazardous/infectious materials are used, researched, stored or produced;
  - b. Trade name of the hazardous/infectious materials;
  - c. Chemical name and any commonly used synonym for the hazardous/infectious material and its major components;
  - d. Exact locations on the premises where such hazardous/infectious materials are used, researched, stored and/or produced;
  - e. Amounts of hazardous/infectious materials on the premises per the exact locations;
  - f. Boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate

for liquids, and appearance and odor of the hazardous/infectious materials;

- g. Flash point and flammable limits of the hazardous substance;
- h. Any permissible exposure level, threshold limit value or other established limit value for exposure to a material;
- i. Stability of the material;
- j. Recommended fire extinguishing media, special firefighting procedures and fire explosion hazard information for the material;
- k. Any effect of overexposure to the material, emergency and first aid procedures and telephone numbers to call in an emergency;
- l. Any condition or material which is incompatible with hazardous/infectious material and which must be avoided;
- m. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the material;
- n. Procedures for handling or coming into contact with the material;
- o. Any methods of route or transmission of the infectious agents;
- p. Any symptoms or effect of infection, emergency first aid procedure and a telephone number to be called in an emergency.

(Code 1993, § 5.21(4))

#### **Sec. 34-86. Compressed gases.**

The regulations contained in the Wis. Admin. Code ch. Comm. 13 will be enforced by the fire chief.

(Code 1993, § 5.21(5))

#### **Sec. 34-87. Oxidizing materials.**

Oxidizing materials shall be stored in dry locations and separated from organic materials, including wood surfaces.

(Code 1993, § 5.21(6))

#### **Sec. 34-88. Radioactive materials.**

(a) Radioactive materials shall have readily legible signs warning of radiation dangers and shall be placed at entrances to locations where radioactive materials are used or stored. Signs will not be required for storage of manufactured articles, other than liquids, such as instruments or clock dials, of which radioactive materials are a component part, and luminous compounds, when securely packed in strong containers, provided, the gamma radiation at any surface of the package is less than ten milliroentgens in 24 hours.

(b) When not in use, radioactive materials shall be kept in adequately shielded fire-resistant containers of such design that the gamma radiation will not exceed 200 milliroentgens per hour, or equivalent, at any point of readily accessible surface.  
(Code 1993, § 5.21(7))

#### **Sec. 34-89. Potentially explosive chemicals.**

Potentially explosive chemicals shall be protected from external heat, fire and explosion, and good housekeeping shall be maintained. All spilled materials shall be promptly gathered and destroyed in an approved manner. Smoking shall be prohibited in the storage area.  
(Code 1993, § 5.21(8))

#### **Sec. 34-90. Poisonous gases.**

(a) Poisonous gases shall be stored in rooms of at least one-hour fire-resistant construction and having natural or mechanical ventilation adequate to remove leaking gas. Such ventilation shall not discharge to a point where the gases may endanger any person.

(b) Legible warning signs stating the nature of the hazard shall be prominently placed at all entrances to locations where poisonous gases are stored or used.  
(Code 1993, § 5.21(9))

#### **Sec. 34-91. Corrosive liquids.**

Corrosive liquids shall have satisfactory provisions made for containing and neutralizing or safely flushing away leakage of such corrosive liquids which may occur during storage or handling.  
(Code 1993, § 5.21(10))

#### **Sec. 34-92. Reimbursement for expense of cleanup of spills.**

Any person who possesses or controls a hazardous material or infectious agent which was discharged, or who caused the discharge of a hazardous material or infectious agent shall reimburse the village for actual and necessary expenses incurred by the village or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstance.  
(Code 1993, § 5.21(11))

### **Sec. 34-93. Recovery of costs.**

(a) Recovery of costs from every person using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of Wis. Admin. Code ch. Comm. 10, as in force and amended from time to time.

(b) Every person using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the village for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in the threat of any fire or accidental spill.  
(Code 1993, § 5.21(12))

(c) There is hereby imposed upon and charged a fire call charge to the owner or user at the time of the fire call of the property involved in a fire call response by the Fire Department on any highway within the Village of Mt. Pleasant. The fire call charge shall be in the sum of Five Hundred Dollars (\$500.00), and shall cover the cost of such fire call.

(d) The Fire Chief or his or her designee shall submit statements for such charges to all such owners or users of the property subject to a fire call on such highways as soon as practical following the completion of the fire call. All such charges shall be paid to the Fire Department.

### **Secs. 34-94--34-120. Reserved.**

## **ARTICLE III.**

### **AUTOMATIC SPRINKLER SYSTEMS**

#### **Sec. 34-121. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approved* means:

- (1) As applied to automatic fire sprinkler equipment, approval by the authority charged with the enforcement of this article or their designated representative.
- (2) As applied to automatic fire sprinklers and devices, approval by a recognized testing laboratory.

*Area* means the maximum horizontal projected area on one floor of a building or structure within the exterior walls or between approved fire walls.

*Automatic fire sprinkler equipment* means a system of piping connected to an adequate water supply, provided with approved automatic fire sprinklers and devices arranged and located to discharge water automatically to the seat of the fire.

*Basement* means any story where less than half the height between floor and ceiling is above the average level of the street, sidewalk or finished grade.

*Combustible* means a material or structure which can burn. The term "combustible" is a relative term. Many materials which will burn under one set of conditions will not burn under conditions (e.g., structural steel is noncombustible, but fine steel wool is combustible). The term "combustible" does not usually indicate ease of ignition, burning intensity or rate of burning, except when modified by a term such as "highly," such as in "highly combustible interior finish."

*Fire resistive* means the type of construction in which the structural members, including walls, partitions, columns, floor and roof construction, are of noncombustible materials with fire resistive ratings not less than those specified in the following table. The two classifications are identified by the required fire resistance of floors as a matter of convenience.

#### FIRE RESISTANCE RATING OF STRUCTURAL MEMBERS IN HOURS

	Classification	
	Three-Hour	Two-Hour
Bearing walls or bearing portion of walls, exterior or interior	4	4
Nonbearing walls or portions of walls, exterior or interior(NC--Noncombustible)	NC	NC
Principal supporting members, including columns, trusses,girders and beams for one floor or roof only	3	2
Principal supporting members, including columns, trusses,girders and beams for more than one floor or roof	4	3
Secondary floor construction members, such as the beams, slabs and joints not affecting the stability of the building	3	2

Secondary roof construction members, such as beams, purlins and slabs not affecting the stability of the building	2	1 1/2
Interior partitions enclosing stairways and other openings through floors	2	2

*Fire wall* means a wall which has a fire resistance rating of not less than four hours and which subdivides a building or separates buildings to restrict the spread of fire, including a three-foot parapet wall.

*Incombustible* means the same as the term "noncombustible," but may be subject to misunderstanding due to the prefix in-; therefore, the term "noncombustible" is accordingly preferred.

*Multifamily dwelling* means a building, or portion thereof, containing three or more dwelling units, including tenement houses, apartment houses, condominiums or flats.

*Noncombustible* means not combustible.

*Nonflammable* means not flammable.

*Story* means the part of a building comprised between a floor and the floor or roof next above.

(Code 1993, §§ 5.28, 5.31(1))

**Cross References:** Definitions generally, § 1-2.

## **Sec. 34-122. Installation and maintenance.**

Approved automatic fire sprinkler equipment shall be installed and maintained in the following types of facilities:

- (1) Commercial facilities;
- (2) Convalescent facilities;
- (3) Dormitories;
- (4) Government buildings;
- (5) Hotels;
- (6) Industrial facilities;
- (7) Institutional facilities;

- (8) Motels;
- (9) Multifamily dwellings;
- (10) Nursing homes;
- (11) Old age and other similar institutional buildings;
- (12) Public buildings;
- (13) Roominghouses.

(Code 1993, § 5.31(2))

**Sec. 34-123. Buildings requiring protection.**

A complete, approved automatic fire sprinkler protection system shall be provided in all the buildings, except multifamily dwellings, as follows:

- (1) *Fire restrictive buildings.* Throughout every building which is either:
  - a. Ten thousand square feet or more in total area;
  - b. Over one story in height and exceeds 6,000 square feet in total area; or
  - c. Over two stories in height.
- (2) *Nonfire resistive buildings.* Throughout every building which is either:
  - a. Five thousand square feet or more in total area; or
  - b. Over two stories in height.

(Code 1993, § 5.31(3))

**Sec. 34-124. Accessory buildings requiring protection.**

Approved automatic fire sprinkler equipment shall be installed and maintained in accessory buildings and special principal building areas, as follows:

- (1) *Garages.* In garages, as follows:
  - a. Garages within, attached to, above or below other occupancies.
  - b. Garages used as passenger terminals.
- (2) *Basements and subbasements.* In the basements and subbasements of principal and accessory buildings, as follows:

- a. All basements having a total floor area of 2,500 square feet or more;
  - b. All subbasements, regardless of size.
- (3) *Multifamily buildings.* All multifamily buildings constructed after April 1, 1997, shall comply with the fire sprinkler section in Wis. Stats. § 101.14(4m)(d) and (e).
  - (4) *Day care centers, including adult day care centers.* All day care center, including adult day care center, buildings, regardless of size, shall have complete sprinkler protection throughout as per NFPA 13.
  - (5) *Community based residential facilities (CBRF).* All CBRF buildings, regardless of size, shall have sprinkler protection throughout as per NFPA 13.
  - (6) *Theaters and assembly buildings.* Theater and assembly buildings shall have sprinkler protection throughout all buildings as per NFPA 13.
  - (7) *Hospitals, nursing, convalescent, old age and other similar institutional buildings.* Hospitals, nursing, convalescent, old age and other similar institutional buildings shall have sprinkler protection throughout all buildings of nonfire resistive construction as per NFPA 13.
  - (8) *Schools, colleges and universities.* Schools, colleges and universities shall have sprinkler protection throughout all buildings of nonfire resistive construction as per NFPA 13.
  - (9) *Dormitories, fraternities and sorority houses.* Dormitories, fraternities and sorority houses shall have sprinkler protection throughout all buildings as per NFPA 13.
  - (10) *Hotels, motels and roominghouses.* Hotels, motels and roominghouses shall have sprinkler protection throughout all buildings of nonfire resistive construction as per NFPA 13.
  - (11) *Commercial, industrial and institutional garages and service centers.* Any commercial, industrial and institutional garage and service center building with a total area of 3,000 square feet or greater shall have sprinkler protection. NFPA 13 shall apply.

(Code 1993, § 5.31(4))

**Sec. 34-125. Buildings with high hazard occupancy requiring protection.**

When it is expected there will be a high hazard occupancy, approved automatic fire suppression equipment shall be installed and maintained in newly constructed buildings, including, but not limited to:

- (1) Aircraft hangers;
- (2) Chemical works and/or storage facilities;
- (3) Dry cleaning establishments using or storing gasoline or other volatile flammable liquids;
- (4) Enameling or Japanning operations;
- (5) Explosive and pyrotechnics manufacturing;
- (6) Manufacture and storage of pyroxylin products;
- (7) Oil refineries;
- (8) Paint and varnish manufacturing, storing, handling, spraying and other related operations;
- (9) Paint stripping establishments;
- (10) Smokehouses;
- (11) Storage of explosive gases under pressure (15 psi and over 5,400 cubic feet), such as acetylene, hydrogen and natural gas;
- (12) Storage of materials with a flash point under 200 degrees Fahrenheit, such as celluloid products, kerosene, etc.;
- (13) Sugar, starch, cereal, feed, hay, flour and grist mills;
- (14) Woodworking and other such establishments with combustible dust.

(Code 1993, § 5.31(5))

**Sec. 34-126. Additions, remodeled buildings and change of use.**

All public buildings or places of employment existing on the effective date of the ordinance from which this section is derived and all additions shall conform to this article, as follows:

- (1) *More than 50 percent remodeled or added.* If more than 50 percent of the gross area of a building is remodeled and/or added, the entire building shall be in conformance with the requirements of this article.
- (2) *Twenty-five percent to 50 percent remodeled or added.* If 25--50 percent of the gross area of a building is remodeled and/or added, the requirements in this article need not be conformed with, unless the remodeling includes dwelling units.
- (3) *Less than 25 percent remodeled or added.* If less than 25 percent of the gross area of a building is remodeled and/or added, the requirements in this article need not be conformed with, unless the remodeling includes dwelling units.
- (4) *Total percentages added together.* If percentages remodeled or added are done from the date of the ordinance from which this article is derived forward, all percentages are added together every time to get the total percentages remodeled or added.
- (5) *Change of use.* If the use of a building existing on the date of the ordinance from which this article is derived is changed to a new use, the building shall be made to comply with this chapter.

(Code 1993, § 5.31(6))

#### **Sec. 34-127. Plan approval.**

(a) For all structures subject to this article, prior to the issuance of a building permit being allowed, the fire department shall have received and approved fire protection plans. Such requirement will apply to all building permits issued after February 1, 2000.

(b) Prior to the installation of any portion of a fire suppression system or alteration of an existing fire suppression system, plans shall be submitted to the fire chief for review. All fire suppression systems must comply with all applicable NFPA standards.

(c) Four copies of plans, specifications and calculations shall be submitted for review. The bureau of fire prevention shall stamp "Conditionally Approved Reviewed Plans" on such copies, and two copies will be returned to the submitter. One copy with the "Conditionally Approved by the Fire Prevention Bureau" stamp must remain on the job site at all times. All copies of the plans submitted shall be signed and sealed by a state registered architect, fire protection engineer, fire protection designer or the qualifier for the fire suppression contractor installing the work. Plans which are not signed and sealed will not be reviewed.

(d) The fire department's conditional approval of fire suppression plans does not affirm the accuracy of any calculations performed by the contractor. Full responsibility for the accuracy of the system design and calculations is the responsibility of the fire protection contractor.

(e) No work may begin on the installation of any fire suppression system or the alteration of an existing system until the plans, specifications and calculations have been reviewed by the fire department and a permit for installation is obtained.

(Code 1993, § 5.31(7))

**Sec. 34-128. Method of installation.**

(a) Approved fire suppression systems shall be installed in accordance with current National Fire Protection Association (NFPA) standards and/or recommended practices which are applicable.

(b) All fire sprinkler systems shall use hydrant water flow test data which is dated no more than six months prior to the submission of the sprinkler plans for review. The data shall be obtained during peak water demand conditions, and conducted in such a manner that it represents true orientation (direction of flow) of the supply to the system being designed.

(1) In new construction where no municipal water supply is available, but the structure requires an automatic fire suppression sprinkler system as specified in this article or applicable statute or codes, an approved automatic sprinkler system shall be installed and connected to an approved water supply (well, pressurized tank or fire pump), capable of delivering water and pressure as specified in NFPA 13 (hydraulically calculated), for a period of not less than 15 minutes, to the most hydraulically demanding point. A letter from a certified fire protection engineer attesting to the ability of the system to comply with such requirement shall be required prior to occupancy.

(2) A system of heat and smoke detectors, monitored 24 hours per day, shall be installed.

(3) Within 90 days after a municipal water supply becomes available, the sprinkler system shall be connected to the municipal water supply.

(c) All sprinkler system designs shall be based on no more than 90 percent of the available water supply. A minimum safety factor of ten percent shall be maintained.

(d) All fire suppression systems shall be installed in accordance with all applicable state codes.

(e) The location of all fire department connections shall be approved by the fire chief.

(f) Audible alarm bells are required inside and outside of all buildings.  
(Code 1993, § 5.31(8))

**Sec. 34-129. Equipment maintenance.**

(a) All fire suppression equipment shall be maintained in proper working order in accordance with state codes.

(b) The fire department shall be notified prior to shutting down any system for any reason and again when the system has been restored to service.  
(Code 1993, § 5.31(9))

**Sec. 34-130. Inspections.**

(a) All fire sprinkler systems shall be inspected, tested and maintained in accordance with the current edition of NFPA 25. A copy of all inspection and testing reports shall be sent to the fire department on a yearly basis and/or if requested by the fire chief or fire inspector.

(b) Inspections of fire suppression systems during construction will be made by the fire department or their designated representative.

(c) The fire protection contractor must request an inspection prior to any fire protection system component being concealed.

(d) The fire protection contractor must request an inspection upon completion of the installation of the fire protection system.

(e) The fire protection contractor must request an inspection 24 hours in advance.  
(Code 1993, § 5.31(10))

**Sec. 34-131. Testing.**

(a) The following tests shall be witnessed by the fire department or their representative:

- (1) Fire protection water supply hydrostatic tests.
- (2) Fire protection water supply flushings.
- (3) Sprinkler system hydrostatic tests.
- (4) Standpipe hydrostatic tests.
- (5) Dry sprinkler air/hydrostatic tests.
- (6) Dry pipe valve trip tests.

- (7) Deluge system trip tests.
- (8) Fire pump acceptance tests.
- (9) Carbon dioxide system acceptance tests.
- (10) Dry chemical system acceptance tests.
- (11) Foam system acceptance tests.
- (12) Special agent acceptance tests.
- (13) Standpipe system acceptance tests.
- (14) Full flow backflow preventer tests.
- (15) Sprinkler system acceptance tests.
- (16) Fire hydrant flow tests.

(b) The fire protection contractor must request the fire department witness all testing at least 24 hours in advance of such testing.  
(Code 1993, § 5.31(11))

#### **Sec. 34-132. Fire protection fees.**

Fire protection system review fees shall be as follows:

TABLE 34-132-1

Area Square Feet	Fire Alarm	Fire Suppression
2,500 or Less	\$385.00	\$385.00
2,501--5,000	385.00	385.00
5,001--10,000	495.00	495.00
10,001--20,000	495.00	495.00
20,001--30,000	605.00	605.00
30,001--40,000	605.00	605.00
40,001--50,000	1,100.00	1,100.00
50,001--75,000	1,650.00	1,650.00
75,001--100,000	2,750.00	2,750.00
100,001--200,000	3,850.00	3,850.00
200,001--300,000	5,500.00	5,500.00
300,001--400,000	8,800.00	8,800.00
400,001--500,000	13,200.00	13,200.00
500,001 & over	16,500.00	16,500.00

Fee for review of plans and/or calculations per unit:

- (1) Fire sprinkler, fire control and/or fire suppression system plan review with one set of hydraulic calculations, per system for each review.  
(This fee is charged for each separate system, floor and/or area of a building), each minimum plus appropriate square footage fee per Table 34-132-1 . . . . \$385.00
- (2) Verification of additional sets of hydraulic calculations.  
(This fee is charged for each additional set of hydraulic calculations required by the AHJ.), each . . . . 195.00
- (3) Verification of additional sets of hydraulic calculations utilizing the Darcy-Weisbach calculation method which is required for all antifreeze systems in addition to the review fees charged above.  
(This fee is charged for each additional set of hydraulic calculations required by the AHJ.), each . . . . 295.00
- (4) Stand pipe systems, each . . . . 385.00
- (5) Fire pumps, per review, each . . . . 300.00
- (6) Modifications to existing sprinkler systems:
  - a. Minimum fee for a system modification without hydraulic calculations,  
each . . . . 200.00
  - b. The fee per sprinkler head up to 19 sprinklers without hydraulic calculations--Up to 19 sprinklers, each . . . . 20.00
  - c. Modifications of existing systems over 19 sprinklers with hydraulic calculations, per system . . . . 385.00
- (7) Fire sprinkler system underground mains, including combination mains:
  - a. 0 to 999 feet, per foot . . . . 200.00 + .73
  - b. 1,000 feet or more, per foot . . . . 400.00 + .73
- (8) Other fire protection, fire control and/or fire suppression systems including wet chemical, dry chemical or gaseous agent systems, etc., each . . . . 300.00
- (9) Fire alarm systems per control panel, per review, each . . . . 250.00

- (10) Fire alarm system manual pull stations, initiating and annunciating devices; this includes smoke, heat, flame, ionization, photoelectric detectors, water flow devices, horns, strobes, bells and all monitoring devices, per device, up to 3 . . . . . 50.00  
per additional 10.00
- (11) Fire hose standpipe connections, per outlet . . . . . 15.00
- (12) Fire hydrant, per hydrant . . . . . 50.00
- (13) Various Site Inspection Services, witnessed tests, etc.:
  - a. Witnessing of all required tests, (two hour minimum), per hour . . .  
. . . 100.00
  - b. Witness final acceptance tests of fire protection systems (two hour minimum), per hour . . . . . 100.00
  - c. Hydrant flow test, per hour . . . . . 100.00
  - d. Site inspection of all types of fire protection/prevention systems during installation. NOTE: Fire protection/prevention systems may not be concealed prior to inspection. Inspections are required for all installations, (two hour minimum), per hour . . . . . 100.00
  - e. Site inspections/special inspection services for:  
  
Spray booths, dip tanks, liquid spray, hood and duct ventilation, halon, carbon dioxide, water or foam spray, dry chemical, etc., (two hour minimum),  
per hour . . . . . 100.00
  - f. Fire protection consulting on systems and/or for occupancies or permits including fire hydrant site plan review, fire department access review,  
per hour . . . . . 175.00
- (14) Testing of emergency lighting, per hour . . . . . 100.00
- (15) General fee information.
  - a. These fees apply to all above listed plan reviews, system inspections, system testing whether conducted by the fire department or fire department consultant or other municipal representative.

- b. All fees shall be rounded up to the next full dollar amount.
- c. Tests and inspections must be scheduled with the fire department a minimum of 72 hours in advance.
- d. Tests and inspections shall be scheduled when the contractor can assure the work has been completed. Tests scheduled before the job is complete will be charged a re-inspection fee.
- e. Tests and inspections must begin within 30 minutes after the arrival of the fire inspector
- f. Other fees charged to the Village of Mount Pleasant from other governmental entities for reviewing plans or permits, as indicated by the above indicated code section in their entirety fees charged are at cost.
- g. Except in emergency cases, the standard permit fee shall be tripled upon failure to obtain a permit before work on a building has started.
- h. Failure to call for a final inspection is a \$100.00 charge.

(Ord. No. 1-2009, 1-12-2009)

**Editors Note:** Ord. No. 1-2009, Jan. 12, 2009, amended § 34-132, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 34-132 pertained to fees and derived from Code 1993, § 5.31(12).

### **Sec. 34-133. Permits.**

Permits are required for all automatic fire sprinkler system installations prior to installation of any equipment. Permits will not be issued until the plans and calculations have been reviewed.

(Code 1993, § 5.31(13))

### **Sec. 34-134. Alternate means of compliance.**

The fire chief or designee may allow an alternate means of compliance with any provision of this chapter upon application, in writing, by the property owner, lessee or authorized agent, when there are demonstrated practical difficulties or hardships arising from strict enforcement of this chapter, provided that the spirit and intent of this chapter is observed, public safety secured and substantial justice done. Any alternate means of compliance with this Subsection shall be in full compliance with applicable state and federal law. The particulars of such alternate compliance, when granted or allowed, and the decision of the fire chief or designee thereon shall be entered upon the records of the fire department, and a signed copy shall be mailed or personally delivered to the applicant.

(Ord. No. 9-03, § 5.31(14), 9-22-2003)

**Secs. 34-135--34-160. Reserved.**

## **ARTICLE IV.**

### **FIRE HYDRANTS AND LANES\***

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\* **Cross References:** Utilities, ch. 82.

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#### **Sec. 34-161. Compliance.**

All building construction involving not less than 4,000 square feet of floor space, except single-family residences only, commenced after the date of adoption of the ordinance from which this article is derived, shall comply with this article.

(Code 1993, § 5.31(intro. ¶))

#### **Sec. 34-162. Accessible water mains.**

(a) Where water mains are accessible, plans showing the location of hydrants on both public and private property shall be submitted to, and approved by, the fire chief, village board and plan commission.

(b) Fire hydrants shall be available to serve the building site prior to the start of construction of combustible materials.

(c) There shall be sufficient hydrants to concentrate the required fire flow around buildings, with no hose line exceeding 500 feet in length.

(d) No unauthorized person shall use, operate, conceal or hinder, in any manner, the accessibility or reduce the effectiveness of any fire hydrant. Application may be made to the fire department for permission to use fire hydrants.

(Code 1993, § 5.32(1))

#### **Sec. 34-163. Nonaccessible water mains.**

(a) Where water mains are not accessible, an adequate plan for fire protection shall be submitted to, and approved by, the fire chief, village board and plan commission.

(b) The effectiveness of firefighting operations depends in large measure upon the adequacy of water supply. This means that the prefire plans must be concerned with sources of water supply and where pumpers will be located. Each situation must be worked out on its own merits.

(c) Water supply must be of a sufficient volume to meet required fire flow for buildings.  
(Code 1993, § 5.32(2))

**Sec. 34-164. Access lanes.**

The contractor or person in charge of any construction site, whose structures, except single-family residences, total more than 4,000 square feet, shall provide access lanes in conformity with village specifications for public roads. Such access lanes shall be complete at the time the construction has progressed to the first use of combustible materials.  
(Code 1993, § 5.32(4))

**Secs. 34-165--34-200. Reserved.**

**ARTICLE V.**

**STORAGE TANKS**

**Sec. 34-201. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Class I, II and III liquids* have the meanings provided in Wis. Admin. Code ch. Comm. 10.  
(Code 1993, § 5.33(1))

**Cross References:** Definitions generally, § 1-2.

**Sec. 34-202. Wis. Admin. Code ch. Comm. 10 adopted.**

Wis. Admin. Code ch. Comm. 10 is adopted by reference and made a part of this section as if fully set forth in this section.  
(Code 1993, § 5.33(2))

**Sec. 34-203. Responsibility of owners and operators.**

The owner and operator of any aboveground or underground storage tank for class I, II or III liquids shall, at all times, be responsible for the integrity of each storage tank at each location, together with the piping and dispensing systems connected therein from the time of installation until termination of use, in accordance with Wis. Admin. Code ch. Comm. 10.  
(Code 1993, § 5.33(3))

#### **Sec. 34-204. Enforcement.**

Under Wis. Admin. Code ch. Comm. 10, and the terms of a professional services contract between the village and the state department of commerce, the fire department is authorized to issue permits, charge fees and take enforcement action authorized thereby. The chief of the fire department and designees thereof shall exercise jurisdiction over this article and the groundwater protection related provisions of Wis. Admin. Code ch. Comm. 10, within the village.  
(Code 1993, § 5.33(4))

#### **Sec. 34-205. Permit required.**

A permit under Wis. Admin. Code ch. Comm. 10, through the fire department, shall be required for the abandonment, closure, removal or change in service, or placing temporarily out of service of any aboveground or underground storage tank for class I, II or III liquids, with a capacity of more than 60 gallons. Storage tank systems shall include piping, vents, leak detection systems, cathodic protection and spill/overflow protection systems. The owner and operator of any such storage tank shall file an application for such storage tank with the fire department, on designated forms, with the applicable fee. The application shall include:

- (1) Three copies of a site assessment plan in accordance with Wis. Admin. Code § Comm. 10.734; and
- (2) Three site plot plans, drawn to scale, showing the following:
  - a. Property lines.
  - b. All buildings and structures.
  - c. All tanks and piping.
  - d. Adjacent streets.
  - e. Overhead and underground utilities.
  - f. Limits of the excavation.
  - g. Temporary location of excavated dirt and backfill.

(Code 1993, § 5.33(5))

#### **Sec. 34-206. Fee schedule.**

Storage tank fees shall be as follows:

- (1) Bulk storage permit, under 5,000-gallon tanks, as set by the village board.

- (2) Plan examination, flammable and combustible liquids:
  - a. First tank, as set by the village board.
  - b. Two--ten tanks, as set by the village board.
  - c. Maximum fee, as set by the village board.
- (3) Revisions to previous plans, as set by the village board.
- (4) Tank installation, inspection service fee, per tank, as set by the village board.
- (5) Tank abandonment or removal, inspection service fee, per tank, as set by the village board.

*Note:* An inspection fee will be charged for each tank at bulk plants, service stations or other locations. The fee shall be paid at the time the plans are submitted. Reinspection fees shall be paid before a reinspection will be performed.

- (6) Reinspection fee, per tank, as set by the village board.
- (7) Second reinspection, per tank, as set by the village board.
- (8) Short notice inspection (eight through 14 days), as set by the village board.
- (9) Short notice inspection (one--seven days), as set by the village board.

*Note:* A short notice fee shall be charged when a tank inspection must be made without the required 15 days' notice.

(Code 1993, § 5.33(6))

**Secs. 34-207--34-240. Reserved.**

## **ARTICLE VI.**

### **FIRE ALARMS**

#### **Sec. 34-241. Purposes.**

The purposes of this article are to establish regulations, standards and controls relating to the type, use and installation of fire alarm devices, whether such fire alarm devices are monitored by the fire department, a private alarm company or any other person, and to establish a fire

department central alarm station and policies and procedures for the development and use of a central monitoring station.  
(Code 1993, § 5.34(1))

#### **Sec. 34-242. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*False alarm* means a signal from an alarm system, resulting in a response by the fire department, when an emergency situation does not exist.

*Fire alarm* means any device which, when activated by a fire or other emergency requiring fire department response, transmits a signal to a central alarm system or directly to the fire department, or produces an audible or visible signal designed to notify persons within audible or visual range of the signal.  
(Code 1993, § 5.34(2))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 34-243. Maintenance of central alarm station.**

A central alarm station shall be maintained in the safety building at such location as the chief of the fire department may designate.  
(Code 1993, § 5.34(3))

#### **Sec. 34-244. Connection to central alarm station.**

The chief of the fire department shall determine the number and type of alarm owners or alarm lessees which may be connected to the fire department central alarm station. No person shall cause a private alarm system to be connected to the fire department central alarm station unless such proposed connection receives prior approval, in writing, by the chief of the fire department. Any person denied permission to connect to the central alarm station may appeal such denial by filing a written notice to with the clerk-treasurer within ten days of the date of denial. Such appeal shall be heard by the village board within 30 days after filing such notice of appeal. The determination of the village board shall be final.  
(Code 1993, § 5.34(4))

#### **Sec. 34-245. Prior of consideration for connection to central alarm system.**

The chief of the fire department shall give priority for connection to the fire department central alarm station to persons required by state or federal law or regulation to maintain a fire alarm system on their premises.  
(Code 1993, § 5.34(5))

**Sec. 34-246. Conditions upon approval for connection to central alarm system; false alarms.**

(a) All persons whose application for connection to the fire department central alarm station is approved by the chief of the fire department shall comply with the following conditions:

- (1) Pay all costs of installation and connection to the fire department central alarm station.
- (2) Pay to the village an annual monitoring fee as set by the village board.
- (3) Use alarm equipment that meets minimum UL and NFPA 72 alarm device standards.
- (4) Pay all costs of disconnection or termination of service, whether such disconnection or termination is initiated by the chief of the fire department or the alarm user.
- (5) Perform testing of the alarm system in accordance with rules and procedures promulgated by the chief of the fire department or his designee per NFPA 72.
- (6) Pay all expenses of termination and reconnection whenever the location of the fire department central alarm station is changed.
- (7) Sign an agreement holding the village and the fire department harmless for any and all damages or losses resulting, directly or indirectly, from an alarm connection terminating at the fire department.
- (8) In accordance with this article, cause such system to be periodically inspected and maintained in accordance with the manufacturer's recommendations.

(b) For various reasons, false alarms frequently occur. Each false alarm requires response by public safety personnel involves unnecessary expense to the village, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the village. Such false alarms constitute a public nuisance and must be abated. Persons connecting to central alarms systems in accordance with this article shall pay to the village a charge for false alarms responded to by the fire department according to the following schedule for each calendar year, for each premises connected:

(1)	First two false alarms	Written notice
(2)	Third false alarm	As set by the village board
(3)	Fourth false alarm	As set by the village board
(4)	Fifth and subsequent false alarms	As set by the village board

(c) This section is intended to impose a strict liability on the person responsible for alarm connection to the fire department central alarm station and applies regardless of the cause of the false alarm.

(Code 1993, § 5.34(6))

#### **Sec. 34-247. Audible or visual alarm systems.**

Any person maintaining an audible or visual alarm system on his premises shall be subject to the provisions of section 34-246(b) under the same conditions as central alarm systems. Warnings or penalties issued under section 34-246(b) for audible or visual alarm systems may be appealed to the village board in accordance with the procedures under section 34-248.

(Code 1993, § 5.34(7))

#### **Sec. 34-248. Disconnections and appeals.**

Failure to comply with any provision of this article, including the nonpayment of the charges for false alarms or repeated false alarms (more than five false alarms within a 12-month period), shall be cause for an alarm system to be disconnected from the fire department central alarm station upon 30 days' prior written notice by the chief of the fire department. Such disconnection shall be made at the alarm holder's expense. An order of disconnection may be appealed by filing a written notice of appeal with the clerk-treasurer within ten days of the date of the disconnection order. Such appeal shall be heard by the village board within 30 days of the date of filing the appeal. The village board may affirm, reverse or modify the order of the chief of the fire department. An appeal which is timely filed suspends the disconnection until the village board renders its decision. Not later than 24 hours prior to the hearing, the clerk-treasurer shall give written notice to the applicant of the time and place of the hearing. The chief of the fire department may, at his discretion, require the immediate disconnection of any alarm system connected to the fire department central alarm station if technical failure or defects of the system result in a continual or sporadic alarm.

(Code 1993, § 5.34(8))

#### **Sec. 34-249. Intentional false alarms.**

No person shall intentionally cause the activation of a fire alarm device knowing that no emergency exists.

(Code 1993, § 5.34(9))

#### **Sec. 34-250. Alarms emitting sounds similar to emergency vehicle or civil defense sirens.**

No person shall sell, use or install a fire alarm which, upon activation, emits a sound the same as, or similar to, emergency vehicle sirens or civil defense sirens.

(Code 1993, § 5.34(10))

**Sec. 34-251. Private fire alarm companies.**

Private fire alarm companies shall be responsible for the monitoring, maintenance and use of private central alarm stations and shall pay to the village the false alarm charge prescribed in section 34-246(b) for false alarms responded to by the fire department if such response was the result of the actions of a private alarm company. The amount of such false alarm charge shall be based on the number of such village fire responses to each business, commercial or residential premises. Any person owning, leasing or operating a private alarm system programmed to a central office shall also maintain a maintenance system during the hours that such system is in operation and shall dispatch a company representative to the location of any alarm transmitted upon request of the fire department so that such representative arrives within one hour of such request. Each premises shall be considered a separate entity for purposes of determining the number of false alarms under this section. Private alarm companies shall provide the chief of the fire department with a list of premises within the village which are monitored by the alarm company, including the name of the subscriber and the address of each such premises. The private alarm company shall submit revisions to such list within 30 days following such changes of premises covered and the company shall also provide the chief of the fire department with a telephone number at which the maintenance service may be contacted at any time.  
(Code 1993, § 5.34(11))

**Chapters 35--37**

**RESERVED**

## Chapter 38

### MINIMUM BUILDING AND PREMISES STANDARDS\*

\* **Editors Note:** Ord. No. 14-2009, § 1, adopted Oct. 26, 2009, repealed Ch. 38(Title), in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Ch. 38(Title) pertained to Health and Sanitation. See Code Comparative Table for derivation.

**Cross References:** Boards, commissions and committees, § 2-181 et seq.; animals, ch. 10; buildings and building regulations, ch. 14; mobile homes, ch. 50; solid waste, ch. 66; utilities, ch. 82.

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**ARTICLE I.**  
**IN GENERAL**

**Sec. 38-1. Violations; penalties.**

Except as otherwise provided, any person found to be in violation of any provision of this article shall be subject to section 1-15.  
(Code 1993, § 11.25)

**Secs. 38-2--38-30. Reserved.**

**ARTICLE II.**  
**BUILDING AND PREMISES MAINTENANCE AND USE STANDARDS\***

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\* **Editors Note:** Ord. No. 14-2009, § 2, adopted Oct. 26, 2009, repealed Ch. 38, Art. II(Title), in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Ch. 38, Art. II pertained to Minimum Property Standards. See Code Comparative Table for derivation.

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**DIVISION 1.**  
**GENERALLY**

**Sec. 38-31. Purpose.**

(a) This article is adopted for the purpose of preserving and promoting the public health, safety, morals, comfort, convenience, prosperity and general welfare of the people of the village and its environs, including, but not limited to, physical, aesthetic, spiritual and monetary values.

(b) It is recognized that there may be residential and nonresidential buildings, structures, yards or vacant areas, and combinations thereof, which are so dilapidated, unsafe, dangerous, unhygienic, overcrowded, inadequately maintained or lacking in basic equipment or facilities, light, ventilation and heating as to constitute a menace to the health, safety and general welfare of the people. The establishment and enforcement of minimum standards of habitation and property conservation is necessary to preserve and promote the private and public interest.  
(Code 1993, § 11.06(1))

**Sec. 38-32. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Basement* means a portion of a building located partly underground, but having less than half its clear height below the average grade of the adjoining ground.

*Cellar* means a portion of a building located partly or wholly underground, but having half or more than half of its required clear floor to ceiling height below the average grade of the adjoining ground.

*Dwelling* means any building which is wholly or partly used, or intended to be used, for living or sleeping by human occupants.

*Dwelling unit* means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used, or intended to be used, for living, sleeping, cooking and eating by one family.

*Habitable room* means a room or enclosed floor space used, or intended to be used, for living, sleeping, laundries, pantries, foyers, communication corridors, closets and storage spaces.

*Health officer* means the health officer of the village or his authorized representative.

*Lodginghouse* means a residential building, or portion thereof, containing lodging rooms which accommodate, in the aggregate, three or more persons who are not members of the keeper's family, for which lodging or meals, or both, or lodging and kitchen privileges are provided for compensation.

*Lodging room* means a room rented as sleeping and living quarters, but without cooking facilities, and with or without an individual bathroom. Such term includes a room so rented in a single family dwelling or dwelling unit.

*Multiple dwelling* means a building containing two or more living units for families living independently of each other.

*Occupant* means any person over one year of age, living or sleeping in, or having actual possession of, a dwelling unit, including the owner thereof.

*Owner* means any person who alone, jointly or severally with others shall be the legal recorded holder of the title, with or without actual possession thereof, or one who has charge, care or control of any dwelling as the agent or representative of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Whenever the term "owner" covers two or more persons, each person shall have the obligations of an owner under this article.

*Person* includes owners, their agents, tenants and any individual, firm, corporation, partnership or association.

*Ventilation* means the following:

- (1) *Mechanical* means the supply and removal of air by power driven devices.

- (2) *Natural* means ventilation by an opening to outside air through windows, doors or other openings.

(Code 1993, § 11.06(3))

**Cross References:** Definitions generally, § 1-2.

### **Sec. 38-33. Applicability.**

The provisions of this article shall apply to all dwellings within the village and its police jurisdiction.

(Code 1993, § 11.06(2))

### **Sec. 38-34. Modification of existing dwellings to comply with article.**

If any existing dwelling is not required under any other ordinance of the village, including, but not limited to, the plumbing, electrical and building codes, to be modified so as to comply with the provisions of any such ordinance, then modification of a dwelling solely for the purpose of complying with the provisions of this article shall not require further modification under any other ordinance of the village.

(Code 1993, § 11.06(10))

### **Sec. 38-35. Healthful maintenance of premises.**

See section 39-1.

(Ord. No. 14-2009, § 3, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 3, adopted Oct. 26, 2009, repealed § 38-35, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 38-35 pertained to similar subject matter. See Code Comparative Table for derivation.

### **Sec. 38-36. Control of weeds, grasses and accumulation of debris on property.**

(a) *Destruction of noxious weeds per State Statute §66.0907 and mowing of grasses required on all properties--Weed commissioner.*

- (1) *Mowing required.* No person owning property within the village shall permit any weeds to grow or pollinate upon his premises which cause or produce hay fever in human beings, exhale unpleasant or noxious odors or conceal filthy deposits. In order to prevent such growth and pollination, every property owner shall mow, or cause to be mowed, all weeds upon the premises which exceed nine inches in height, but this section shall not apply to normal agricultural crops.
- (2) *Lawns in residential areas.* Grasses shall be kept trimmed/mowed to conform to the general appearance of the surrounding residential area.
- (3) *Destroy* for purposes of this section only, means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or

any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage. A person owning, occupying, or controlling land located within the village shall mow and/or destroy noxious weeds on such lands.

- (4) Destruction of noxious weeds by means of cutting shall be accomplished before the weeds exceed nine inches in height and as often subsequently as is necessary during the year. This section shall not apply to normal agricultural crops.
- (5) No person within the Village shall transport, transfer, or introduce any prohibited or restricted non-native invasive species as defined and controlled in Wisconsin Administrative Code Chapter NR 40.

(b) *Accumulation of debris on property--Health officer.* See section 39-1.

(c) *Village enforcement, noxious weeds and grasses--Weed commissioner.*

- (1) If the property owner in control fails to comply within five days' written notice by mail, the weed commissioner or his designee shall destroy or cause to be destroyed such noxious weeds and mow them in the manner deemed to be the most economical method. Subsequent mowings/weed destruction will be made automatically as necessary.
- (2) The expense thereof, including the cost staff time and billing, any applicable taxes and other necessary administrative expenses, as well as the cost of sufficiently clearing the property of any debris so that it can be safely mowed, shall be charged against such property and shall be collected as a special charge thereon. In destroying noxious weeds and mowing grasses, the Weed Commissioner may, but need not, utilize appropriate village personnel and equipment, the expense of which village involvement shall be billed to the property's owner. Only one written notification to the property owner per year is required.
- (3) The cost incurred by the village and any associated penalties and administrative fees will be assessed as a special charge/tax upon the lands upon which such grasses and weeds are located under the provision of Wis. Stats. § 66.0517. Billings invoiced to property owners will be due and payable upon receipt. If the charge for cleanup remains unpaid by October 1st of each year the unpaid billings will be placed on the property owner's tax bill as a special charge.

(d) *Accumulation of debris on property--Health officer.* See section 39-1.

(e) *Penalty.* In addition to any other charges assessed under this section, a citation for the violation of this section may be issued pursuant to the procedures set forth in this Code. Any

person convicted of violating section 38-36 shall forfeit not less than \$25.00 or more than \$100.00, together with the costs of prosecution. Any person convicted of violating section 38-36 who has been convicted of violating this section within the prior year shall forfeit not less than \$50.00 nor more than \$200.00, together with the costs of prosecution. In default of payment of such forfeitures and costs, such person shall be subject to further order of the court pursuant to Wis. Stats. ch. 800.

(Ord. No. 14-2008, 9-22-2008; Ord. No. 14-2009, §§ 4, 5, 10-26-2009)

**Editors Note:** Ord. No. 14-2008, adopted Sep. 22, 2008, amended § 38-36 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 38-36 pertained to control of weeds, grasses and vacant lots and derived from Code 1993, § 11.13.

**State Law References:** Wis. Stats. §§ 66.0407, 66.0517.

### **Sec. 38-37. Keeping of animals and fowl.**

See sections 10-16 and 39-2.

(Ord. No. 14-2009, § 6, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 6, adopted Oct. 26, 2009, repealed § 38-37, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 38-37 pertained to similar subject matter. See Code Comparative Table for derivation.

**Cross References:** Animals, ch. 10.

### **Sec. 38-38. Covering and displaying of food and dairy products.**

See section 39-2.

(Ord. No. 14-2009, § 7, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 7, adopted Oct. 26, 2009, repealed § 38-38, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 38-38 pertained to similar subject matter. See Code Comparative Table for derivation.

### **Sec. 38-39. Sale of unwholesome and tainted food and drinks.**

See section 39-2.

(Ord. No. 14-2009, § 8, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 8, adopted Oct. 26, 2009, repealed § 38-39, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 38-39 pertained to similar subject matter. See Code Comparative Table for derivation.

### **Sec. 38-40. Discharge of hazardous wastes.**

(a) *Prohibited discharges.* No person shall discharge, or cause to be discharged, leaked, leached or spilled upon any public street, alley or public property, or onto the ground, surface waters, subsurface waters or aquifers, or on any private property, except areas specifically licensed for waste disposal or landfill activities within the village, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above nuclear regulatory restriction levels, etiologic agents or any solid, liquid or gas creating a hazard, potential hazard, public nuisance or having a deleterious effect on the environment.

(b) *Containment, cleanup and restoration.* Any person in violation of subsection (a) of this section shall, upon direction of any emergency government officer or staff, begin immediate action to contain, clean up and remove the offending material to an approved repository and restore the site to its original condition. Should any person fail to engage or complete the requirements of this subsection, the office of emergency government may order the required action to be taken by public or private resources and allow the recovery of any and all costs incurred by the village under section 38-41(b).

(c) *Site access.* Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency government staff or officers for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.

(d) *Public protection.* Should any prohibited discharge occur that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and limb, the coordinator of emergency government or, in his absence, the deputy coordinator of emergency government or the senior police or fire official on the scene of the emergency, may order an evacuation of the area or take other appropriate protective steps for a period of time until the village chair or village board can act.

(Code 1993, § 11.17(1)--(4))

#### **Sec. 38-41. Violations; penalties; civil liability.**

(a) Upon conviction in court, any person found to be in violation of this article shall forfeit not less than \$200.00 for the first offense, \$750.00 for the second offense and \$1,500.00 for the third offense and, in default of payment thereof, may be imprisoned not more than 90 days. Each and every day a violation shall occur shall be considered a separate offense.

(b) Any person in violation of this article shall be liable to the village for any expense incurred by the village, or loss or damage sustained by the village by reason of such violation.

(Code 1993, § 11.17(6), (7))

#### **Secs. 38-42--38-60. Reserved.**

### **DIVISION 2.**

#### **ADMINISTRATION AND ENFORCEMENT\***

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\* **Cross References:** Administration, ch. 2.

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#### **Sec. 38-61. Right to enter and inspect premises and vehicles.**

See section 39-2.

(Ord. No. 14-2009, § 9, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 9, adopted Oct. 26, 2009, repealed § 38-61, in its entirety and enacted

new provisions to read as herein set out. Prior to amendment, § 38-61 pertained to similar subject matter. See Code Comparative Table for derivation.

### **Sec. 38-62. Abatement of health nuisances.**

See section 39-1.

(Ord. No. 14-2009, § 10, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 10, adopted Oct. 26, 2009, repealed § 38-62, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 38-62 pertained to similar subject matter. See Code Comparative Table for derivation.

**Cross References:** Public nuisances, ch. 62.

### **Sec. 38-63. Authority to issue citations and complaints.**

The coordinator of emergency government, the building inspector or the police chief, or their respective deputies or designees, shall have authority to issue citations or complaints under this article.

(Code 1993, § 11.17(5); Ord. No. 14-2009, § 11, 10-26-2009)

### **Sec. 38-64. Duties of building inspector.**

(a) *Termination of occupancy.* This article shall be enforced by the building inspector and it shall be his duty to prohibit or terminate the occupancy of any dwelling or dwelling unit unfit for human occupancy under the provisions of this article until the necessary corrections have been made.

(b) *Inspections.* The building inspector shall, on his own motion or upon written complaint made to him, inspect any dwelling or dwelling unit within the scope of this article to determine its condition in order that he may perform his duty of safeguarding the health and welfare of the occupants of such dwelling and the general public.

(c) *Access to dwellings.* Upon proper identification, the building inspector shall be permitted to enter any dwelling unit within the village or its police jurisdiction at any reasonable time for the purpose of making inspections to determine compliance with this article.

(d) *Notice of permissible occupancy.* In every dwelling or dwelling unit in which an inspection has been made by the building inspector, there shall be posted a notice of "permissible occupancy," which shall specify the habitable room area and the maximum number of persons which may safely occupy such dwelling unit in accordance with the space requirements. Forms for such notice shall be provided by, and secured from, the building inspector of the village. No person shall omit, falsify, mutilate, remove or fail to comply with such notice.

(e) *Notice of violations.* Upon inspection, whenever the building inspector finds any violation of this article, he shall notify the occupant and owner or agent responsible for such violation by means of a written notice of inspection. In such notification, the building inspector shall set forth the specific condition found, the correction necessary to bring about compliance and a specific and reasonable time for such correction and compliance. Each condition which is

continued or repeated after the time specified in such notification shall constitute a separate violation of this article.

(f) *Service of notice.* Each notice or order provided under this section shall be deemed to have been properly served when it has been personally delivered or regular mailed postage to the occupant and owner or his agent responsible for the dwelling or dwelling unit which is the subject of such notice or order.

(g) *Occupancy after notification.* Upon the failure of the owner or occupant, or both, or other person responsible for compliance with this article, after due notice as set forth in this section to comply with the provisions of this article within the time prescribed by the building inspector, the subject dwelling or dwelling unit shall be considered unfit for human habitation, occupancy and use and shall be so designated and placarded by the building inspector in accordance with Wis. Stats. § 66.0413. Any dwelling or dwelling unit designated as unfit for human habitation shall be vacated within 60 days after due notice by the building inspector, and shall not again be used for human habitation until the facilities prescribed by this article have been provided.

(h) *Appeal.* Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this article may, within 30 days after service of the notice or order, request and shall thereafter be granted a hearing before the health and sanitation appeal board. Enforcement of any order issued by the building inspector shall be stayed, pending the decision of any appeal therefrom.

(i) *Records.* All complaints, communications and other documents addressed to the building inspector, and all inspection reports, notices or orders issued by him, shall be filed in the office of the building inspector and shall be a public record.

(j) *Emergency enforcement procedure.* Notwithstanding any other provisions of this section, if the building inspector determines that any dwelling is damaged, decayed, dilapidated, dangerous, unsanitary, unsafe or vermin infested so that it creates a serious hazard to the health or safety of the occupants of such dwelling or the public, the building inspector may placard such dwelling and, within 24 hours after such placarding, serve notice to the occupant and owner or his agent responsible for such dwelling, as the case may be, in accordance with subsection (f) of this section, that the dwelling is unfit for human habitation and that it shall be vacated within a reasonable time as ordered by the building inspector. The appeal procedure referred to in subsection (h) of this section shall apply to any order for vacation made by the building inspector under this subsection.

(Code 1993, § 11.06(8); Ord. No. 14-2009, § 12, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 12, adopted Oct. 26, 2009, renamed § 38-64(Caption) to read as herein set out. Prior to amendment, § 38-64 pertained to duties of health officer. See Code Comparative Table for derivation.

## **Sec. 38-65. Building and premises maintenance appeal board.**

(a) *Created.* There is created the building and premises maintenance appeal board, consisting of five residents of the village, including at least one village supervisor, property

owner and renter. Whenever any member of the appeal board shall lose the status which was a prerequisite to his appointment to such appeal board, and such loss of status has the effect of loss of the minimum requirement of the class of representation on the appeal board as provided for in this subsection, his term of office shall thereupon expire and his position shall be deemed vacant.

(b) *Appointment, terms, compensation.* The members of the appeal board shall be appointed by the village board, and vacancies on the appeal board shall be filled in the same manner. All appointments shall be made for staggered terms of three years, except the village supervisor member of the appeal board shall be a member only as long as he continues to hold his office as village supervisor. Appeal board members shall receive no compensation for their services.

(c) *Meetings.* Meetings of the appeal board shall be held at the call of the chair and at such other times as the appeal board may determine. The chair may administer oaths and compel the attendance of witnesses. In the absence of the chair, the members of the appeal board shall elect one of its members to preside and exercise the functions of the chair. All meetings of the appeal board shall be open to the public. The appeal board shall keep minutes of its meetings and records of its hearings and other official actions, all of which shall be immediately filed in the office of the appeal board and shall be a public record.

(d) *Quorum.* The presence of at least three members of the appeal board shall constitute a quorum at any meeting duly called.

(e) *Office.* The office of the appeal board shall be in the office of the building inspector in the village hall. All documents and communications addressed to, or required to be filed with, the appeal board shall be filed in the office of the appeal board. The secretary shall have charge of all of the records and files of the appeal board.

(f) *Functions.* The appeal board shall conduct a hearing on any appeal filed by any person affected by any notice or order issued in connection with the enforcement of the provisions of this article. After such hearing, the appeal board shall sustain, modify or withdraw the notice or order, depending upon its findings, as to whether the provisions of this article have been complied with. The appeal board may also modify any notice so as to authorize a variance from the provisions of this article when, because of special conditions, a literal enforcement of the provisions of this article will result in practical difficulty or unnecessary hardship, provided that the spirit of this article will be observed, public health and welfare secured and substantial justice done. If the appeal board sustains or modifies such notice or order, it shall be deemed an order, and the owner, operator or occupant, as the case may require, shall comply with all provisions of such order, within a reasonable period of time, as determined by the appeal board. After a hearing in the case of any notice suspending any permit required by this article, when such notice has been sustained by the appeal board, the permit shall be deemed to have been revoked. The concurring vote of a majority of a properly convened appeal board shall be required to reverse or modify any order, requirement, decision or determination of the building inspector or to decide in favor of the applicant on any matter upon which it is required to pass under this article.

(Code 1993, § 11.06(9); Ord. No. 14-2009, § 13, 10-26-2009)

**Editors Note:** Ord. No. 14-2009, § 13, adopted Oct. 26, 2009, renamed § 38-65(Caption) to read as herein

set out. Prior to amendment, § 38-65 pertained to health and sanitation appeal board. See Code Comparative Table for derivation.

**Secs. 38-66--38-90. Reserved.**

### **DIVISION 3.**

#### **BASIC EQUIPMENT AND FACILITIES**

##### **Sec. 38-91. Habitable living quarter standards.**

No person shall occupy as owner, or let to another for occupancy, any dwelling or dwelling unit within the scope of this article for the purpose of living or sleeping therein, which does not comply with the following requirements:

- (1) *Toilets and lavatories.* Every dwelling unit shall contain a water flush toilet within a room which affords privacy to a person in such room. Artificial light shall be provided. Toilet and lavatory rooms shall be provided with reasonably adequate ventilation by mechanical or natural means, and if by natural means, then the openings shall not be less than five percent of the floor area, but they shall in no event be less than 1 1/2 square feet in area. Every dwelling unit shall also contain a lavatory basin, preferably, but not exclusively, in the same room as the toilet. Such toilet and lavatory basins shall be in good sanitary working order and connected to public water and sewer systems where available at the lot line or property line; provided, however, that a reasonably adequate and properly operating well and/or septic system may be used if not prohibited by other ordinances or other applicable governmental laws, statutes, regulations or orders.
- (2) *Bathing facilities.* Every dwelling unit shall contain, within a room which affords privacy to a person in such room, a bathtub or shower, in good sanitary working condition and connected to public water and sewer systems, where available.
- (3) *Lighting.* Artificial light shall be provided in all common or public spaces within a dwelling.
- (4) *Kitchen facilities.* Every dwelling or dwelling unit shall have a specific kitchen space, which contains a sink with a counter, work space, hot and cold running water, adequate space for installing cooking and refrigeration equipment and for storing cooking utensils.
- (5) *Water supply.* Every lavatory basin, bathtub and shower shall be connected with both hot and cold water lines.

- (6) *Water heating facilities.* Every dwelling unit shall have water heating facilities supplied, which are properly installed, maintained in a safe and good working condition, properly connected to the hot water lines required under the provisions of subsections (4) and (5) of this section and are capable of heating water to a temperature so as to permit an adequate amount of water to be drawn at every required lavatory basin, bathtub, shower or sink at a temperature of not less than 110 degrees Fahrenheit.
- (7) *Insect protection.* When flies are prevalent, at least one window or door per habitable room and in each bathroom of a dwelling unit opening into the outer air shall be effectively screened, and screen doors, where used, shall be self-closing.
- (8) *Rodent protection.* Every opening to a basement or cellar which might provide an entry for rodents shall be constructed or supplied with a device so as to effectively prevent the entrance of rodents.
- (9) *Space.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and 100 square feet of floor space for every additional occupant thereof, provided that:
- a. The floor area shall be calculated on the basis of total habitable room area.
  - b. At least half of the floor area of every habitable room shall have a ceiling height of at least seven feet, and the floor area of that part of any room where the ceiling height is less than four feet shall not be considered as part of the floor area in computing the total floor area of the dwelling unit for determining the maximum permissible occupancy.
  - c. Each child over the age of one year shall count as one person in the maximum permissible occupancy.
- (10) *Bedroom space.* A suitably private space used for sleeping shall be provided in each dwelling unit. A bedroom shall not be used as the only means of access to another habitable room, other than another bedroom.
- (11) *Egress.* Every dwelling unit and lodging room shall have access to at least two accessible, unobstructed means of egress leading to a safe and open public street, alley or court.
- (12) *Heating.* Every dwelling or dwelling unit designed or intended to be used, or actually used, for dwelling purposes, shall be equipped, maintained and operated with a heating system which, at all times, is capable of maintaining minimum temperatures of 68 degrees Fahrenheit in all

habitable rooms and 75 degrees Fahrenheit in all bathrooms and toilet compartments with an outside temperature of -20 degrees Fahrenheit.

- (13) *Electric service.* Every habitable room shall contain at least two separate floor or wall type electric convenience outlets, or one such convenience outlet and one supplied ceiling type or wall type electric fixture; and every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one supplied ceiling or wall type electric fixture. Every such outlet and fixture shall be properly installed and shall be maintained in a good and safe working condition, and shall be connected to the source of electric power in a safe manner as required by the electrical code of the village. Each lodging room shall be provided with lamps or fixtures with incandescent or equivalent bulbs having a total capacity of at least 150 watts.
- (14) *Garbage disposal.* Every dwelling shall have on the premises a means of disposal or removal of trash and garbage. Where disposal will not take place promptly, there shall be a convenient and appropriate temporary and sanitary storage provided for trash and garbage, which shall be inaccessible to rodents.
- (15) *Light and ventilation.* Every habitable room shall have outside windows having a total area enclosed by the sash of at least one-tenth of the floor area of the room, but not less than 12 square feet. The top of at least one such window shall be not less than six feet above the floor and at least 50 percent of the required window area must be openable. One window in each habitable room and bathroom, and all doors opening to the exterior of the dwelling shall be provided with a screen of not less than no. 16 mesh, which will effectively prevent the entrance of flies and mosquitoes. Every dwelling or dwelling unit having basement windows or exterior basement doors shall have screens of not less than no. 16 mesh on all doors and windows when open.
- (16) *Basement and cellar space.* No basement or cellar space may be used as a habitable room or dwelling unit, except as provided in this subsection. In one-family and two-family dwellings, kitchens and dining rooms may be located in a basement area having its floor level not more than three feet, six inches below the outside finish grade. A basement space may be used as a living or sleeping room or dwelling unit, provided its floor level is not more than three feet, six inches below the outside finish grade, at any point, and the ceiling is four feet or more above grade, at any point. Family or recreation rooms may be located in basements or cellars, provided adequate ventilation is provided.

(Code 1993, § 11.06(4); Ord. No. 14-2009, § 14, 10-26-2009)

### **Sec. 38-92. Maintenance requirements.**

All dwellings and dwelling units shall comply with the following requirements for maintenance:

- (1) *Floors, walls, ceilings, foundations and roofs.* Every floor, wall, ceiling, foundation and roof shall be:
  - a. Reasonably weathertight, watertight and rodentproof;
  - b. Capable of affording privacy; and
  - c. Kept in good repair.
- (2) *Windows, doors and basement hatchways.* Every window, exterior door and basement hatchway shall be reasonably weathertight, waterproof and rodentproof and shall be kept in a sound working condition and good repair.
- (3) *Stairs, porches and appurtenances.* Every inside and outside stair, porch and appurtenance thereto shall be constructed so as to be safe to use and capable of supporting the load that normal use would cause to be placed thereon, and shall be kept in a sound condition and good repair.
- (4) *Plumbing fixtures.* Every plumbing fixture and water pipe required under this article shall be maintained in a good and sanitary working condition, free from defects, leaks and obstructions.
- (5) *Toilet and bathroom floors.* The floors of all toilet rooms and bathrooms shall be constructed and maintained so as to be reasonably impervious to water and easily cleaned.
- (6) *Discontinuance of service.* No owner, occupant or operator shall cause any service, facility, equipment or utility which is required under this article to be removed or shut off from, or discontinued for, any occupied dwelling which is let or occupied by such person, except for such temporary interruption as may be necessary while actual repairs or alterations are in progress, or during a temporary emergency when discontinuance of service is approved by the enforcing officer.

(Code 1993, § 11.06(5))

### **Sec. 38-93. Maintenance responsibilities of owners and occupants.**

(a) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep that part of the dwelling, dwelling unit and premises thereof, including the surrounding land and any accessory structures which he occupies or controls, in a clean and sanitary condition and, prior to

moving, vacating or relinquishing occupancy or control, every occupant of a dwelling or dwelling unit shall properly dispose of all garbage and rubbish.

(b) *Disposal of rubbish.* Every occupant of a dwelling or dwelling unit shall dispose of all of his rubbish in a clean and sanitary manner by placing it in rubbish containers of a type prescribed by the village.

(c) *Disposal of garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his garbage, and any other organic waste which might provide food for rodents, in a clean and sanitary manner by placing it in garbage containers of a type approved by the village.

(d) *Screens, storm windows and storm doors.* Every owner shall furnish, and every occupant of a dwelling or dwelling unit shall be responsible for hanging, all screens and double or storm doors and windows whenever such screens, doors and windows are required under the provisions of this article, except where the owner has agreed to supply such service. Screens shall be hung not later than June 1 of each year.

(e) *Extermination of pests.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests in or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination within the unit occupied by him whenever his dwelling unit is the only one infested. Notwithstanding such provisions, whenever infestation is caused by the failure of the owner to maintain a dwelling in a reasonably ratproof or insectproof condition, extermination shall be the responsibility of the owner. Extermination of any infestation in an unoccupied dwelling unit shall be the responsibility of the owner even though the condition may have been caused by a previous occupant.

(f) *Use and operation of supplied fixtures and facilities.*

- (1) Every occupant of a dwelling unit within the scope of this article shall keep all plumbing fixtures supplied by the owner in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- (2) Every occupant of a dwelling unit which is within the scope of this article shall be responsible for the exercise of reasonable care and proper use and operation of all heating facilities supplied by the owner.
- (3) No person shall willfully or wantonly damage, mutilate or deface any part of the residential real estate or fixtures, furnishings or equipment supplied by the owner of any dwelling unit within the scope of this article.

(g) *Definition.* For the purposes of this section only, the term "occupant" shall mean an occupant who is an adult or emancipated person.

(Code 1993, § 11.06(6); Ord. No. 14-2009, §§ 15, 16, 10-26-2009)

#### **Sec. 38-94. Lodginghouses and lodging rooms.**

No person shall operate a lodginghouse, or occupy or let to another for occupancy any lodging room in any lodginghouse, except in compliance with the following requirements:

- (1) *Permit required.* No person shall operate a lodginghouse unless such person holds a valid lodginghouse permit issued by the village clerk in the name of the operator and for the specific dwelling or dwelling unit within which the lodginghouse is contained.
- (2) *Permit application.* The operator shall file, in duplicate, an application for a lodginghouse permit in the office of the village clerk upon application forms prepared by such office.
- (3) *Application to and inspection by building inspector.* Whenever an application for a lodginghouse permit is filed for a lodginghouse which does not have a valid permit, the building inspector shall inspect the lodginghouse within 30 days of such filing to determine the maximum number of persons which may occupy the lodginghouse in accordance with the provisions of applicable zoning laws, and to ensure that the lodginghouse conforms to the requirements of this article.
- (4) *Permit issuance, display and transferability; fees; notice of disposal.* When all applicable provisions of this article have been complied with by the operator, the building inspector shall issue a lodginghouse permit upon the payment of the fee imposed under section 46-431(9), but the permit shall list the maximum number of persons that may reside in the total of all lodging rooms and shall at all times be displayed in a conspicuous place within the lodginghouse. No such permit shall be transferable. Every person holding such a permit shall give notice, in writing, to the building inspector within 30 days after having sold, transferred, given away or otherwise disposed of ownership of, interest in or control of any lodginghouse. Such notice shall include the name and address of the person succeeding to the ownership or control of such lodginghouse.
- (5) *Hearing on permit denial.* Any person whose application for a permit to operate a lodginghouse has been denied may request and shall be granted a hearing on the matter before the health and sanitation appeal board under the procedure provided by section 38-64(h).

- (6) *Relationship of permit to building and zoning codes.* The issuance of a lodginghouse permit shall not in any way signify or imply that a lodginghouse conforms with the applicable state building code or the building and zoning codes of the village and county. The issuance of a lodginghouse permit shall not relieve the owner or operator of the responsibility for compliance with such building and zoning codes.
- (7) *Permit suspension.* Whenever, upon inspection of any lodginghouse, the building inspector finds that conditions or practices exist which are in violation of any provision of this article, the building inspector shall give notice, in writing, to the operator of such lodginghouse that unless such conditions or practices are corrected within a reasonable period, to be determined by the building inspector, the operator's lodginghouse permit will be suspended. At the end of such period, the building inspector shall reinspect such lodginghouse and, if he finds that such conditions or practices have not been corrected, he shall give notice, in writing, to the operator that the operator's permit has been suspended. Upon receipt of notice of suspension, such operator shall immediately cease operation of such lodginghouse and no person shall occupy, for sleeping or living purposes, any lodging room in such lodginghouse.
- (8) *Hearing after suspension.* Any person whose permit to operate a lodginghouse has been suspended, or who has received notice from the building inspector that his permit is to be suspended, unless existing conditions or practices at his lodginghouse are corrected, may request, and shall be granted, a hearing on the matter before the health and sanitation appeal board, under the procedure provided by section 38-64(h), provided that, if no petition for such hearing is filed within 30 days following the day on which such permit was suspended, such permit shall be deemed to have been automatically revoked.
- (9) *Toilets and lavatories.* At least one flush toilet, lavatory basin and bathtub or shower, properly connected to a municipal water and sewer system and in good working condition, shall be supplied within a lodginghouse for each eight persons, including the operator's quarters or family whenever they share the use of such facilities; provided, however, that a reasonably adequate and properly operating well and/or septic system may be used, if not prohibited by other ordinances or applicable governmental laws, statutes, regulations or orders. All such facilities shall be located within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

Every lavatory basin and bathtub or shower shall be adequately supplied at all times with hot water. No such facilities shall be located in a basement.

- (10) *Linens.* The operator of every lodginghouse shall change supplied bed linens and towels therein at least once each week and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.
- (11) *Area of sleeping rooms.* Every room occupied by one person for sleeping purposes shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet of floor space for each occupant thereof.
- (12) *Exits.* Every lodging room shall have at least two safe, unobstructed means of exit. The requirements of section 38-91(11) shall be applicable to lodginghouses.
- (13) *Sanitary maintenance.* The operator of every lodginghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings and the maintenance of a sanitary condition in every part of the lodginghouse, and he shall further be responsible for the sanitary maintenance of the entire structure or building leased or occupied by the operator.
- (14) *Rubbish storage.* Adequate rubbish storage containers, the type and location of which are approved by the village, shall be supplied by the lodginghouse operator. The operator shall be responsible for the disposal of all rubbish in a clean and sanitary manner by placing such rubbish in the required containers.
- (15) *Garbage disposal or storage.* Adequate garbage disposal facilities or garbage containers, the type and location of which are approved by the village, shall be supplied by the lodginghouse operator. The operator shall be responsible for the disposal of all garbage in a clean and sanitary manner through the use of approved mechanical equipment or by placing such garbage in the required containers.
- (16) *Definition.* As used in this section, the term "operator" shall include the term "owner," as defined in section 38-32.
- (17) *Other applicable requirements.* All other requirements of this article not expressly inconsistent with the provisions of this section shall also apply to lodginghouses and lodging rooms.

(Code 1993, § 11.06(7); Ord. No. 14-2009, §§ 17--22, 10-26-2009)

**Secs. 38-95--38-120. Reserved.**

#### **DIVISION 4.**

#### **RESTAURANTS, GROCERS AND MEAT MARKETS\***

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\*See section 39-2.

**Editors Note:** Ord. No. 14-2009, § 23, adopted Oct. 26, 2009, repealed Ch. 38, Art. II, Div. 4, §§ 38-121--38-128. Former Art. II, Div. 4, pertained to similar subject matter. See Code Comparative Table for derivation.

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**Secs. 38-121--38-160. Reserved.**

#### **ARTICLE III.**

#### **ENVIRONMENTAL SANITATION\***

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\*See section 39-2 and, with respect to pet shop/store licensing, Chapter 46, Article XIV.

**Editors Note:** Ord. No. 14-2009, § 24, adopted Oct. 26, 2009, repealed Ch. 38, Art. III, Divs. 1--4, §§ 38-161, 38-162, 38-191--38-200, 38-231--38-242, 38-271, 38-272. Former Art. III, Divs. 1--4, pertained to similar subject matter. See Code Comparative Table for derivation.

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**Secs. 38-161--38-272. Reserved.**

**CHAPTER 39**  
**HEALTH DEPARTMENT**

<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
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**Article I. In General**

Sec. 39-1.	Local Board Of Health, Local Health Department and Local Health Officer.		
Sec. 39-2.	Human Health Hazards.		
Sec. 39-3.	Lodging, Recreation and Food Protection.		
Sec. 39-4.	Rabies Control.		

**SEC. 39-1     LOCAL BOARD OF HEALTH, LOCAL HEALTH  
DEPARTMENT AND LOCAL HEALTH OFFICER.**

(a)     *Intermunicipal Agreement Providing for Joint Local Board of Health, Joint Local Health Department and Joint Local Health Officer.* By intermunicipal agreement the Villages of Caledonia, Mt. Pleasant, Sturtevant and North Bay have created a Joint Local Board of Health, established a Joint Local Health Department and appointed a Joint Local Health Officer to serve the above Villages, as well as other municipalities that are added as members to the intermunicipal agreement ("Member Municipalities"), or otherwise contract for the provision of public health services ("Contract Municipalities"). This Agreement is entered into pursuant to the authority set forth in Wis. Stat. Sections 66.0301, 251.09 and 251.02(3r).

(b)     *Designation of Local Board of Health, Local Health Department and Local Health Officer.* The Joint Local Board of Health created by the intermunicipal agreement is hereby designated the "Central Racine County Board of Health" and is established as the joint local board of health of the Member Municipalities and Contract Municipalities pursuant to Section 251.02(3r), Wisconsin Statutes. The Central Racine County Health Department established pursuant to the intermunicipal agreement is hereby designated and established as the local health department of the Member Municipalities and Contract Municipalities pursuant to Section 251.02(3r), Wisconsin Statutes. The local health officer, designated as the Health Officer/Director of Public Health, and provided for in the intermunicipal agreement is hereby designated as the local health officer for the Member Municipalities and Contract Municipalities.

(c)     *Local Board of Health.* The local Board of Health shall be designated as the Central Racine County Board of Health and pursuant to Wis. Stat. Section 251.03(4r), the parties determine that the membership of the Board of Health shall be comprised as set forth in the intergovernmental agreement.

(d)     *Powers and Duties of Local Board of Health.* The Central Racine County Board of Health shall constitute the policy-making body for the Central Racine County Health Department, and shall exercise authority over financial and personnel matters, as set forth in the intermunicipal agreement. The Board of Health shall be responsible for operating and maintaining at least a Level II Health Department to jointly serve the Member Municipalities and Contract Municipalities. The Board of Health shall have the powers and perform such duties as are prescribed in Wis. Stat. Sections 251.04 and 251.05, except as otherwise specifically provided in the intermunicipal agreement or in joint ordinances adopted by Member Municipalities and Contract Municipalities.

(e)     *Effect of Intermunicipal Agreement.* In all other respects such intermunicipal agreement executed by the Member Municipalities shall govern the administration of the Central Racine County Board of Health, Health Department and Joint Local Health Officer.

(f) *Repeal of Inconsistent Ordinances.* The provisions of this Chapter shall supersede any inconsistent provisions of this Code of Ordinances, which inconsistent provisions shall be, and hereby are, repealed as of the effective date of this ordinance.

## **SEC. 39-2 HUMAN HEALTH HAZARDS.**

### *(a) Purpose and General Provisions.*

- (1) This Section is adopted for the purpose of preserving and promoting the public health of residents and preventing the continuance of Human Health Hazards.
- (2) No Person shall erect, construe, cause, continue, maintain or permit any Human Health Hazards. Any Person who shall cause, create or maintain a Human Health Hazard or who shall in any way aid or contribute to the creation or maintenance thereof shall be guilty of a violation of this Section, and shall be liable for all costs and expenses attendant upon the abatement or removal of such hazards and subject to penalties provided in this Section.
- (3) It shall be the joint responsibility of the Owner and Occupant of a Dwelling or Dwelling Unit to maintain their property in a manner which complies with this Code and any applicable state and federal laws.
- (4) This Section does not prohibit the following activities so long as they are conducted in accordance with the applicable ordinance or State Statute: the sanitary operation of licensed junkyards; or the storage and accumulation of ashes and effuse by industrial establishments which maintain adequate and sanitary facilities and the space for the accumulation and storage of such materials.

(b) *Authority.* This Section is adopted pursuant to the authority granted by Chapters 251 and 254, Wis. Stats., as amended from time-to-time, which regulations are hereby adopted, and incorporated by reference as though fully set forth herein. The Health Officer or Code Official shall have the power to abate human health hazards in accordance with this Section and Wis. Stat. Section 254.59, which statute is adopted by reference and made part of this Section as if fully set forth in this Section.

(c) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Chapter, unless a different meaning is plainly intended:

- (1) Basement. A portion of a building located partly or wholly underground.
- (2) Building Inspector. The Building Inspector of the Municipality or his or her authorized representative.

- (3) Carbon Monoxide Detector. A device that detects the presence of carbon monoxide gas.
- (4) Cellar. A portion of a building located partly or wholly underground, but having ½ or more of its clear floor to ceiling heights below the average grade of the adjoining ground.
- (5) Code Official. Building Inspector, municipal law enforcement officer, Fire Chief, and/or the Health Officer, or their respective authorized representatives.
- (6) Dwelling. Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.
- (7) Dwelling Unit. Any room or group of rooms located within a Dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating by one family.
- (8) Exterior Premises. The open space on the premises or the portion of the premises upon which there is not a structure.
- (9) Extermination. The control or elimination of insects, rodents or other Vermin by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by blocking their access to a Dwelling, by poisoning, spraying, fumigating or trapping, or by any other legal pest elimination method approved by the Code Official.
- (10) Health Officer. The Health Officer of the Central Racine County Health Department or his/her authorized representative.
- (11) Human Health Hazard. A substance, activity or condition that is known to have the potential to cause acute or chronic illness, to endanger life, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.
- (12) Immediate Human Health Hazard. A condition which exists or has the potential to exist which should, in the opinion of the Health Officer, be abated or corrected immediately, or at least within a 24-hour period, to prevent imminent and severe damage to human health.
- (13) Municipality. A city, town, or village within the jurisdiction of the Central Racine County Health Department.
- (14) Occupant. Any Person living, sleeping or eating or having actual possession of a Dwelling Unit.

- (15) Owner. Any Person who, alone or jointly or severally with others shall be the record holder of the title of any Dwelling or Dwelling Unit, with or without actual possession thereof, or who has charge, care or control of any Dwelling as agent of the owner or as executor, administrator, trustee or Guardian of the estate of the owner.
- (16) Person. Includes Owners, Occupants, their agents, tenants and any individual, firm, corporation, partnership or association.
- (17) Smoke Detector. A device that detects the visible or invisible particles of combustion.
- (18) Vermin. Rats, mice, cockroaches or similar animals or insects that are known to be vectors of human pathogens.
- (19) Workmanlike. Work of such character so as to meet manufacturer's specifications, accepted national standards or recognized trade practices, and to provide a durable result as intended to ensure public safety, health and welfare insofar as they are affected by building construction, use and occupancy.

(d) *Health Standards for Basic Facilities and Maintenance of Habitable Living Quarters*. No Person shall occupy or allow another Person to occupy any Dwelling or Dwelling Unit for the purpose of living or sleeping therein, which does not comply with the following requirements:

- (1) Toilet and Lavatory. Every Dwelling Unit shall contain a water flush toilet within a room which affords privacy to a Person in such room. Every Dwelling Unit shall contain a lavatory basin, preferably but not exclusively in the same room as the toilet. Such toilet and lavatory basins shall be connected and maintained in compliance with the Municipality's plumbing code.
- (2) Bathing Facilities. Every Dwelling Unit shall contain, within a room which affords privacy to a Person in such room, a bathtub or shower connected and maintained in compliance with the Municipality's plumbing code.
- (3) Egress. Every Dwelling Unit shall have access to at least two accessible, unobstructed means of egress leading to a safe and open public street, alley or court.
- (4) Heating Facilities. Every Dwelling or Dwelling Unit shall be equipped with heating facilities which are properly installed, and maintained in a safe and good working condition and are capable of maintaining minimum

temperatures of 68 degrees Fahrenheit in all rooms with an outside temperature of -10 degrees Fahrenheit.

- (5) Electric Service. Every outlet and fixture shall be properly installed and shall be maintained in a good and safe working condition, and shall be connected and maintained in compliance with the Municipality's Electric Code.
- (6) Smoke Detectors. Smoke Detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each additional story of the Dwelling Unit, including Basements and Cellars excluding crawl spaces and unfinished attics.
- (7) Carbon Monoxide Detectors. The owner of a dwelling shall install a functional carbon monoxide detector in the basement of the dwelling and on each floor level except the attic, garage, or storage area of each dwelling unit. This paragraph does not apply to the owner of a dwelling that has no attached garage, no fireplace, and no fuel-burning appliance.
- (8) Extermination of Vermin. Every Occupant of a Dwelling containing a single Dwelling Unit shall be responsible for the Extermination of any Vermin in or on the premises; and every Occupant of a Dwelling Unit in a Dwelling containing more than one Dwelling Unit shall be responsible for such Extermination within the unit occupied by them whenever their Dwelling Unit is the only one infested. Notwithstanding such provisions, whenever an infestation is caused by the failure of the Owner to maintain a Dwelling in a reasonably rodent-proof or insect-proof condition, Extermination shall be the responsibility of the Owner. Extermination of any infestation in an unoccupied Dwelling Unit shall be the responsibility of the Owner even though the condition may have been caused by a previous Occupant. All Extermination services shall be performed by a licensed exterminator. Effective Extermination shall continue until all Vermin are eliminated. The responsible person shall submit completed Extermination reports from the licensed exterminator to the appropriate Code Official upon request.
- (9) Hazardous Conditions. Every Dwelling Unit shall be structurally sound and shall be free of conditions that constitute a Human Health Hazard, an Immediate Human Health Hazard to the health and safety of the Occupant(s) or which create an unreasonable risk of personal injury resulting from any reasonably foreseeable use of the Dwelling.
- (10) Discontinuance of Service. No Owner or Occupant shall cause any service, facility, equipment or utility which is required under this Section to be removed or shut off from, or discontinued for, any occupied Dwelling which is let or occupied by such Person, except for such temporary interruption as may be necessary while actual repairs or

alterations are in progress, or during a temporary emergency when discontinuance of service is approved by a Code Official.

(e) *Enforcement.* Upon request of an Owner or Occupant, or upon receipt of a credible complaint, a Code Official shall inspect or cause to be inspected the Dwelling, Dwelling Unit or Exterior Premises which is the subject of the complaint or upon which there exists evidence of a violation of this Section. Such inspection shall be for the purpose of determining whether or not the condition of the Dwelling or Dwelling Unit complies with the standards set forth in this Section.

(f) *Access to Property.* After presenting proper identification a Code Official shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Section and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stats., as amended from time-to-time.

(g) *Declaration of Dwelling as Human Health Hazard.* Notwithstanding any other provisions of this Section, if a Code Official determines that any Dwelling or Dwelling Unit is a Human Health Hazard or Immediate Human Health Hazard, the Code Official shall placard such Dwelling and within 24 hours thereafter serve notice either, by registered mail, return receipt requested, or by personally served notice in the manner provided for in the State Statutes for service of process to the Occupant and Owner that the Dwelling is unfit for human habitation and that it shall be vacated within a reasonable time as ordered by the Code Official. A Dwelling may be declared a Human Health Hazard or Immediate Human Health Hazard for any of, but not limited to, the following reasons:

- (1) A Dwelling is so damaged, decayed, dilapidated, dangerous, unsanitary, unsafe or Vermin-infested that it creates a hazard to the health or safety of the Occupants or the public.
- (2) A Dwelling lacks a potable water supply, a properly functioning public or private sanitary sewer system, or a functioning heating system adequate to protect the health and safety of the Occupants.
- (3) A Dwelling, because of its condition, has been implicated as the potential source of a severe poisoning by a toxic substance including but not limited to lead-bearing paint.

(h) *Workmanship.* All repairs, maintenance work, alterations or installations which are required directly or indirectly by the enforcement of this Section shall be executed and installed in a Workmanlike manner.

(i) *Notice of Violation and Orders for Corrective Actions.* Whenever a Code Official determines that there has been a violation of this Section, notice shall be given to the property Owner, and Occupant as appropriate. Such notice shall:

- (1) Be in writing.
- (2) Include a statement of the violation with reference to the applicable provision(s) of this Section.
- (3) Include the correction(s) necessary to bring about compliance.
- (4) Contain an order to correct said violation by a date certain.

(j) *Service of Notice.* Each notice or order, other than as provided in Subsection (g), provided under this Section shall be deemed to be properly served if a copy thereof is:

- (1) Personally served in the manner provided for in the State Statutes for service of process or,
- (2) Sent by U.S. first class mail, postage prepaid, addressed to the last known address or,
- (3) Posted in a conspicuous place on or about the main entrance to the structure located at the last known address, where there is a structure.

(k) *Appeal.* Any Person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this Section may request in writing a review by the Health Officer or other Code Official issuing such notice or order. Such request shall be submitted before the date for the violation is to be corrected. Subsequent appeal shall be pursuant to the Administrative Review section of this Code or Chapter 68 of the Wisconsin Statutes.

(l) *Noncompliance with Order.*

- (1) Citation. A citation for any violation of this Section may be issued by the Police, Sheriff's Department or by an appropriate Code Official.
- (2) Abatement of Human Health Hazards/Emergency Action. In extreme cases where a violation poses an Immediate Human Health Hazard as determined by the Health Officer or other implicated Code Official, , the Health Officer or Code Official may immediately commence the actions authorized by this Chapter, or any other statutory or ordinance authority, to abate or removed the hazard.

(m) *Penalties.* Any Person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

## SEC. 39-3 LODGING, RECREATION AND FOOD PROTECTION

(a) *Purpose and General Provisions.* The purpose of this Section is to preserve and promote the public health of the residents. The Health Department is granted agent status under Sections 97.41 and 463.16 , Wis. Stats., and accordingly provides all licenses and inspections for retail food establishments, restaurants, public swimming pools, and water attractions, tattoo and body piercing establishments, recreational and educational camps, campgrounds, hotels, motels, tourist rooming houses, bed and breakfast establishments and food vending operations in accordance with the applicable Wisconsin Statutes and/or Administrative Code Chapter.

(b) *Authority.* This Section is adopted pursuant to the authority granted by Chapters 251, 252, 254, and Sections 97.41 and 463.16 of the Wisconsin Statutes, as amended from time-to-time, which regulations are hereby adopted, and incorporated by reference as though fully set forth herein. The Health Officer, or his or her designee, shall have the power to enforce the regulations of this Section, including by the issuance of citations.

(c) *Adoption of State Code; Applications, Permits, and Licenses Required.* Except as otherwise provided in this Section and pursuant to the authority granted by Wisconsin Statutes Chapters 251, 252, 254 and Sections 66.0417 and 97.41, the Village adopts Wisconsin Administrative Code Chapters ATCP 75, SPS 390, SPS 221, ATCP 76, ATCP 78, ATCP 79, DHS192, ATCP 72, ATCP 73, as amended from time-to-time, which are incorporated by reference as though fully set forth herein. All applications, permits and licenses required by such regulations are required by the Municipality and shall be processed in accordance with the applicable Statute or Code Section.

(d) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Section, unless a different meaning is plainly intended:

- (1) Body Piercer. Means a person who performs body piercing on another person at that person's request.
- (2) Food Establishment. An operation that stores, prepares, serves, vends, sells or otherwise provides food for human consumption. The term "Food Establishment" includes a "restaurant" as defined in Section 97.01, Wis. Stats.; a "retail food establishment" as defined in Section 97.30, Wis. Stats.
- (3) Tattooist. Means a person who tattoos another person at that person's request.

(e) *Mobile Food Establishments.* A valid Food Establishment permit issued by the State of Wisconsin or any other competent Health Department for any mobile restaurant or mobile retail Food Establishment which chooses to operate within the jurisdiction of the Central Racine County Health Department will be honored by the Central Racine County Health Department. The mobile Food Establishment will be required to be inspected by the health department and to satisfy the relevant provisions of Wisconsin Administrative Code Chapter

ATCP 75. In addition, the mobile food establishment shall pay an inspection fee for this inspection.

(f) *Body Piercers and Tattooists.* All body piercers and tattooists shall annually complete a bloodborne pathogen training course that is approved by the Health Department. Any tattoo or body piercing establishment allowing a tattooist or body piercer to practice in the establishment without proof of bloodborne pathogen training will be assessed a fee. This fee shall be established by Board of Health as part of the annual budget process.

(g) *Application; Permit.* Any license or permit required under this Section shall make application on a form provided by the Health Department. The Health Department shall determine the contents of the application and may use a form provided by the State. Applications for permits shall be submitted to the Health Department along with the appropriate fee. Applications will be reviewed for compliance with this Section. Permits and licenses issued hereunder shall be conspicuously displayed on the premises of the establishment.

(h) *Inspection by Department.* Authorized employees of the Department, upon presenting proper identification, shall have the authority to perform inspections prior to issuance of any permit or license and from time-to-time of any establishment for compliance with this Code, including the state laws incorporated in this Code by reference.

(i) *Fees.* All fees associated with the operation of any establishment governed by this Section shall be established as part of the annual budget process or by resolution of the Board of Health.

(j) *Penalties.* Any Person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

(k) *Appeal.* Any person aggrieved by any temporary order issued by the Health Officer pursuant to Sec. 66.0417(2)(a), Wis. Stats., shall be granted a hearing before the Board of Health in accordance with the provisions of such Section. Appeal from any order, notice or determination made by the Health Officer other than one controlled by Sec. 66.0417 shall be to the Board of Health pursuant to the applicable ordinance or Chapter 68 of the Wisconsin Statutes in the absence of an administrative review ordinance. The Board of Health may affirm, set aside, or modify the subject order by majority vote. The Board of Health's decision shall be final but may be appealed to the Racine County Circuit Court.

## **SEC. 39-4 RABIES CONTROL**

(a) *Purpose and General Provisions.* The purpose of this Section is to preserve and promote the public health of the residents. Pursuant to Section 254.51, Wis. Stats., the Health Department shall establish measures for the prevention, surveillance and control of human disease that is associated with animal-borne disease transmission.

(b) *Authority.* This Section is adopted pursuant to the authority granted by Chapters 250, 251, and 254 of the Wisconsin Statutes. The law enforcement officer, Humane Officer, Health Officer or their designees shall have the power to enforce the regulations of this Section, including by the issuance of one or more citations, as warranted.

(c) *Adoption of Wisconsin State Statute.* In addition to the provisions of this Section and pursuant to the authority granted by Chapters 250, 251 and 254 of the Wisconsin Statutes, the Municipality adopts Section 95.21, Wis. Stats., which is incorporated by reference as though set forth herein. To the extent any provision conflicts with another provision in this Section, the more restrictive provision applies.

(d) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Section, unless a different meaning is plainly intended:

- (1) Bite. To seize with teeth or jaws, so as to enter, wound, or pierce the skin.
- (2) Cat. Any member of the species felis catus (the domestic cat).
- (3) Code Officer. The Municipality's law enforcement officer, Humane Officer, Health Officer or their designees.
- (4) Dog. Any member of the species canis familiaris (the domestic dog).
- (5) Ferret. Any member of the species mustela putorius (the domestic ferret).

(e) *Rabies Vaccination Required for Dogs.* The owner of a Dog shall have the animal vaccinated against rabies. An owner who fails to obtain a rabies vaccination for a Dog shall be subject to a forfeiture of not less than \$50 and not more than \$100, plus the costs of prosecution.

(f) *Duty to Report Bite.* Any person having knowledge or reason to believe that any Dog, Cat or Ferret has bitten a person, shall immediately report, so far as is known, the name and address of the owner of the animal and circumstances of such Bite. Such report shall be made to the Village/Town Police Department or Sheriff's Department.

(g) *Quarantine.* Any Dog, Cat or Ferret within the Municipality which is believed to have bitten a person, to have been infected with rabies, or to have been in contact with a rabid animal shall be subject to the quarantine requirements and procedures set forth in Sec. 95.21, Wis. Stats. If the Code Official, Chief of Police, the Health Officer, or the Humane Officer determines that a Dog, Cat, Ferret or other domestically-owned animal found in the Municipality has rabies, the Health Officer may order a district quarantine, as provided by § 95.21(3).

(h) *Noncompliance with Quarantine Order.* If after a Dog, Cat or Ferret Bites a person, the animal's owner fails to quarantine the animal and/or fails to have the animal

examined by a licensed veterinarian, the animal may be seized by the Code Official, Health Officer, Police Officer, Deputy Sheriff, Humane Officer or their designees and held at a designated facility until the quarantine time expires. The owner or custodian of the animal shall pay all applicable fees associated with the quarantine, veterinarian's examinations, vaccination and license prior to releasing the animal from the quarantine facility.

(i) *Appeal.* Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this Section may request in writing a review by the Health Officer or other Code Official issuing such notice or order. Such request shall be submitted before the date for the violation is to be corrected. Subsequent appeal shall be to the Village/Town Board pursuant to the applicable ordinance or Chapter 68 of the Wisconsin Statutes in the absence of an administrative review ordinance.

(j) *Penalties.* Except as otherwise provided herein, any person who violates any provision of this Section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.”

**Chapters 40 - 41**

**RESERVED**

## Chapter 42

### LAW ENFORCEMENT\*

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\* **Cross References:** Administration, ch. 2; court, ch. 18; emergency government, ch. 26; offenses and miscellaneous provisions, ch. 54; traffic and vehicles, ch. 78.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 42-1.	Official police department.		
Sec. 42-2.	Police department organization and personnel.		
Sec. 42-3.	Emergency services outside village.		
Sec. 42-4.	Work week of full-time police department members.		
Sec. 42-5.	Compensation of police department members.		
Sec. 42-6.	Powers and duties of chief of police.		
Sec. 42-7.	Control of police department property.		
Sec. 42-8.	Disposal of abandoned and unclaimed property.		
Secs. 42-9 – 42-40.	Reserved.		
<b>Article II. Police Alarms</b>			
Sec. 42-41.	Definitions.		
Sec. 42-42.	Purpose.		
Sec. 42-43.	Location of central alarm station.		
Sec. 42-44.	Connection limitations.		
Sec. 42-45.	Priority for connection.		
Sec. 42-46.	Alarm requirements.		
Sec. 42-47.	Audible or visual alarm systems.		
Sec. 42-48.	Disconnections and appeals.		
Sec. 42-49.	Intentional false alarms.		
Sec. 42-50.	Alarms similar to emergency vehicle or civil defense sirens.		
Sec. 42-51.	Private alarm companies.		
Sec. 42-52.	Automatic dialing alarms.		

## **ARTICLE I.**

### **IN GENERAL**

#### **Sec. 42-1. Official police department.**

The Mount Pleasant Police Department shall be the official police department of the village. The primary duty of the police department is to protect life and property, and enforce such laws as may be within its jurisdiction.  
(Code 1993, § 4.01)

#### **Sec. 42-2. Police department organization and personnel.**

(a) The police department shall consist of the chief of police and such other officers as may be authorized by the village board.

(b) The chief of police shall be appointed by the village board and his salary shall be determined by the village board. The chief of police shall execute and file an official bond in the amount set by the village board.

(c) The village board may appoint temporary or part-time police officers, as may be required.

(d) The chief of police shall supervise all police officers and may establish rules and regulations for the performance of their duties and for the conduct of police activities of the police department, subject to approval by the village board.

(e) The chief of police, and any police officer authorized, in writing, by the chief of police, may accept from any person arrested and charged with a violation of any ordinance a bond or bail in a sufficient amount to assure the appearance of the person at the court having jurisdiction over the offense.

(f) The chief of police shall have control and be responsible for all vehicles and the condition of all property and equipment used in connection with activities of the police department.

(g) The chief of police shall make an annual report of the activities of the police department and such other reports as the village board may require.

(h) Police officers shall not perform police services outside of the village, except in behalf of the village.  
(Code 1993, § 4.02)

#### **Sec. 42-3. Emergency services outside village.**

The chief of police, fire chief and health officer are authorized to give aid through their

respective departments, whenever an emergency requires, to any municipality in the county.  
(Code 1993, § 4.03)

**Sec. 42-4. Work week of full-time police department members.**

The work week for full-time members of the police department shall be 40 hours.  
(Code 1993, § 4.04)

**Sec. 42-5. Compensation of police department members.**

Members of the police department shall receive such compensation from the village as may be fixed by the village board from time to time.  
(Code 1993, § 4.05)

**Sec. 42-6. Powers and duties of chief of police.**

(a) The chief of police shall have general supervision of the police department and shall be responsible for police department personnel and the general efficiency of the police department.

(b) The chief of police shall preside at all meetings and special meetings of the police department, and preserve order and discipline.

(c) The chief of police shall preside in serious internal investigations, have complete command of police responsibility and police operations, and plan and control special programs.

(d) The chief of police shall have the power to suspend or terminate any police officer, police dispatcher or any member of the police department for neglect or refusal to perform departmental duties. Such suspension or termination shall be subject to the provisions Wis. Stats. § 63.10.

(e) The chief of police shall have the power to issue oral or written reprimands to any member of the police department for minor infractions of departmental rules and regulations.

(f) The chief of police shall report to the village board on in-service training, together with other pertinent information and data. He shall submit recommendations and improvements as he deems proper and necessary for the efficient operation of police services.

(g) The chief of police shall keep an inventory of police department equipment.

(h) The chief of police shall appoint the humane officer of the county to enforce all ordinances relating to animals normally enforced by such officer and to issue citations for any violation of such ordinances, which authority shall be exercised with other village police officers as required by law.  
(Code 1993, § 4.06)

**Sec. 42-7. Control of police department property.**

(a) No equipment, vehicle or any other property belonging to the police department shall be used for any purpose, except police work, unless approved by the village board.

(b) No member of the police department shall willfully damage, in any manner, any equipment, vehicle or any other police department property.  
(Code 1993, § 4.07)

**Sec. 42-8. Disposal of abandoned and unclaimed property.**

Personal property which has been abandoned or remains unclaimed for a period of 30 days after the taking of possession of such property by the village shall be disposed of as follows:

- (1) Whenever, in the judgement of the chief of police, there exists sufficient items of abandoned property of value to justify a public sale, the chief of police shall cause notice of a public sale of such property to be given to the public at least ten days prior to such sale and in a manner as he shall direct.
- (2) The chief of police shall keep an accurate inventory of all such abandoned property and the manner in which such property is disposed of; however, the chief of police shall have the authority to destroy any items of abandoned property with no value. Such inventory shall be kept as a public record for a period of not less than two years from the date of disposal of the property.
- (3) All receipts from such public sale, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into the village treasury.

(Code 1993, § 4.08)

**Secs. 42-9--42-40. Reserved.**

**ARTICLE II.**

**POLICE ALARMS**

**Sec. 42-41. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*False alarm* means a signal from an alarm system resulting in a response by the police department when an emergency situation did not exist.

*Police alarm* means any device which, when activated by a criminal act or other emergency requiring police response, transmits a signal to a central alarm system or directly to the police department, or produces an audible or visible signal designed to notify persons within audible or visual range of the signal.

(Code 1993, § 4.09(2))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 42-42. Purpose.**

The purpose of this article is to establish regulations, standards and controls relating to the type, use and installation of police alarm devices, whether such alarm devices are monitored by the police department, a private alarm company or any other person, and to establish a police department central alarm station and policies and procedures for the development and use of a central monitoring station.

(Code 1993, § 4.09(1))

#### **Sec. 42-43. Location of central alarm station.**

A central alarm station shall be maintained in the safety building at such location as the chief of police may designate.

(Code 1993, § 4.09(4))

#### **Sec. 42-44. Connection limitations.**

The chief of police shall determine the number and type of alarm owners or alarm lessees which may be connected to the police central alarm station. No person shall cause a private alarm system to be connected to the police central alarm station unless such proposed connection receives prior approval, in writing, by the chief of police. Any person denied permission to connect to the police central alarm station may appeal by filing a written notice with the clerk-treasurer within ten days of the date of denial. Such appeal shall be heard by the village board within 30 days thereafter. The determination of the village board shall be final.

(Code 1993, § 4.09(5))

#### **Sec. 42-45. Priority for connection.**

The chief of police shall give priority for connection to the police central alarm station to persons required by state or federal law or regulation to maintain a police alarm system on their premises.

(Code 1993, § 4.09(6))

**Sec. 42-46. Alarm requirements.**

(a) All persons whose application for connection to the police central alarm station is approved by the chief of police shall:

- (1) Pay all costs of installation and connection to the police central alarm station.
- (2) Pay to the village an annual monitoring fee as set by the village board.
- (3) Use alarm equipment that meets minimum UL alarm device standards.
- (4) Pay all costs of disconnection or termination of service, whether such disconnection or termination is initiated by the chief of police or the alarm user.
- (5) Perform testing of the alarm system in accordance with rules and procedures promulgated by the chief of police or his designee.
- (6) Pay all expenses of termination and reconnection whenever the location of the police central alarm station is changed.
- (7) Sign an agreement holding the village and police department harmless for any and all damages or losses resulting, directly or indirectly, from an alarm connection terminating at the police department.

(b) Each person connected to the police central alarm station in accordance with this article shall cause such system to be periodically inspected and maintained in accordance with the manufacturer's recommendations.

(c) For various reasons, false alarm systems frequently occur. Each false alarm requires a response by public safety personnel, involves unnecessary expense to the village, increases the risk or injury to persons or damage to property and dilutes the overall public safety protection to the village. Such false alarms constitute a public nuisance and must be abated. Persons connecting to the police central alarm station in accordance with this article shall pay to the village a charge for false alarms responded to by the police, for each calendar year, for each premises connected, in accordance with the following:

		Fee
(1)	First two false alarms	No charge
(2)	Third false alarm	As set by the village board
(3)	Fourth false alarm	As set by the village board
(4)	Fifth and subsequent alarms	As set by the village board

(d) This section is intended to impose a strict liability on the person responsible for alarm connection to the police central alarm station and applies regardless of the cause of the false alarm.

(Code 1993, § 4.09(7))

#### **Sec. 42-47. Audible or visual alarm systems.**

Any person maintaining an audible or visual alarm system on his premises shall be subject to the provisions of section 46-46(c) under the same conditions as central alarm systems. Warnings or penalties issued under section 46-46(c) for audible or visual alarm systems may be appealed to the village board in accordance with the procedures set forth in section 46-48.

(Code 1993, § 4.09(8))

#### **Sec. 42-48. Disconnections and appeals.**

Failure to comply with any provision of this article or repeated false alarms shall be cause for an alarm system to be disconnected from the police department upon 30 days' prior written notice by the chief of police. Such disconnection shall be made at the alarm holder's expense. An order of disconnection may be appealed by filing a written notice of appeal with the clerk-treasurer within ten days of the date of the order. Such appeal shall be heard by the village board within 30 days of the date of filing of the appeal. The village board may affirm, reverse or modify the order of the chief of police. An appeal which is timely filed suspends the disconnection until the village board renders its decision. Not later than 24 hours prior to the hearing, the clerk-treasurer shall give written notice to the applicant of the time and place of the hearing. The chief of police may, at his discretion, require the immediate disconnection of any alarm system connected to the police central alarm station if technical failure or defects of the system result in a continual or sporadic alarm.

(Code 1993, § 4.09(9))

#### **Sec. 42-49. Intentional false alarms.**

No person shall intentionally cause the activation of a police alarm device knowing that no crime or emergency exists.

(Code 1993, § 4.09(10))

#### **Sec. 42-50. Alarms similar to emergency vehicle or civil defense sirens.**

No person shall sell, use or install a police alarm which, upon activation, emits a sound the same as, or similar to, emergency vehicle sirens or civil defense sirens.

(Code 1993, § 4.09(11))

#### **Sec. 42-51. Private alarm companies.**

Private alarm companies shall be responsible for the monitoring, maintenance and use of private central alarm stations and shall pay to the village the false alarm charge prescribed in section 46-46(c) for false alarms responded to by village police, if such response was the result

of the actions of a private alarm company. The amount of such false alarm charge shall be based on the number of such village police responses to each business, commercial or residential premises. Any person owning, leasing or operating a private alarm system programmed to a central office shall also maintain a maintenance system during the hours that such system is in operation and shall dispatch a company representative to the location of any alarm transmitted, upon the request of the police department, so that such representative arrives within one hour of such request. Each premises shall be considered a separate entity for purposes of determining the number of false alarms under this article. Private alarm companies shall provide the chief of police with a list of premises within the village which are monitored by the alarm company, including the name of the subscriber and the address of each such premises. The private alarm company shall submit revisions to such list within 30 days following such change of premises covered, and the company shall also provide the chief of police with a telephone number at which the maintenance service may be contacted at any time.  
(Code 1993, § 4.09(12))

#### **Sec. 42-52. Automatic dialing alarms.**

(a) *Purpose.* The purpose of this section is to establish regulations, performance standards and controls relating to the use of alarm systems used by private residences which automatically select a public primary telephone trunkline of the police department and produces any prerecorded message to notify the village of a burglary or other emergency.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*False alarm* means a signal from an alarm system resulting in a response by the police department when an emergency situation did not apparently exist.

(c) *Police department notification.* All owners of automatic dialing alarm systems shall, in person and in writing, notify the police department that they installed such a device. Failure to notify the police department is a violation of this section.

(d) *False alarms.* For various reasons, false alarms frequently occur. Each false alarm requires a response by public safety personnel, involves unnecessary expense to the village, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the village. Persons having automatic dialing systems in accordance with this section shall pay to the village a charge for false alarms responded to by the police, for each calendar year, for each premises connected, in accordance with the following:

		Fee
(1)	First two false alarms	No charge/written warning
(2)	Third false alarm	As set by the village board
(3)	Fourth false alarm	As set by the village board
(4)	Fifth and subsequent alarms	As set by the village board

(e) *Disconnection and appeals.* Failure to comply with any provision of this section or more than six false alarms in one year shall be cause for an alarm system to be immediately disconnected from the police department upon written notice by the chief of police. An order of disconnection may be appealed by filing a written notice of appeal with the clerk-treasurer within ten days of the date of the order. Such appeal shall be heard by the village board within 30 days of the date of filing the appeal. The village board may affirm, reverse or modify the order of the chief of police. An appeal which is timely filed suspends the disconnection until the village board renders its decision. Not later than 24 hours prior to the hearing, the clerk-treasurer shall give written notice to the applicant of the time and place of the hearing. The chief of police may, at his discretion, require the immediate disconnection of any alarm system if technical failure or defects of the system result in a continual or sporadic alarm.

(f) *Violations; penalties.* Any person found to be in violation of this section shall be subject to section 1-15.  
(Code 1993, § 4.10)

**Chapters 43--45**

**RESERVED**

## Chapter 46

### LICENSES AND PERMITS\*

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\* **Cross References:** Alcohol and alcohol beverages, ch. 6; placement of merchandise for sale, § 70-4; utilities, ch. 82; wireless facilities, ch. 86; B-1 neighborhood business, § 90-571 et seq.; B-2 community business, § 90-591 et seq.; B-3 general business, § 90-611 et seq.; B-4 office, § 90-631 et seq.; B-P business park, § 90-651 et seq.; M-1 industrial (manufacturing and warehousing), § 90-671 et seq.; M-E industrial (existing limited), § 90-691 et seq.; overlay districts, § 90-711 et seq.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 46-1.	Definitions.		
Sec. 46-2.	Licenses.		
Sec. 46-3.	Violations; penalties.		
Secs. 46-4 – 46-30.	Reserved.		
<b>Article II. Direct Sellers</b>			
Sec. 46-31.	Definitions.		
Sec. 46-32.	Registration required.		
Sec. 46-33.	Exemptions.		
Sec. 46-34.	Registration requirements.		
Sec. 46-35.	Investigation.		
Sec. 46-36.	Appeals.		
Sec. 46-37.	Regulations.		
Sec. 46-38.	Records of convictions of violations.		
Sec. 46-39.	Revocation of registration.		
Secs. 46-40 - 46-70.	Reserved.		
<b>Article III. Amusements</b>			
Sec. 46-71.	Definitions.	05-2015	06/22/15
Sec. 46-72.	Amusement device license.		
Sec. 46-73.	Regulations.		
Sec. 46-74.	Violations; penalties.		
Secs. 46-75 – 76-100.	Reserved.		
<b>Article IV. Pool, Billiards and Bowling</b>			
Sec. 46-101.	License required.		
Sec. 46-102.	License application.		
Sec. 46-103.	Requirements and restrictions.		
Secs. 46-104 -- 46-130.	Reserved.		

## **Article V. Massage**

Sec. 46-131.	Purpose and intent.
Sec. 46-132.	Definitions.
Sec. 46-133.	Massage establishment permits.
Sec. 46-134.	Exemptions.
Sec. 46-135.	Massage establishment permit application.
Sec. 46-136.	Investigation.
Sec. 46-137.	Issuance or denial of massage establishment permit; insurance required.
Sec. 46-138.	Temporary massage establishment permit.
Sec. 46-139.	Sanitation requirements.
Sec. 46-140.	Transferability of massage establishment permit.
Sec. 46-141.	Hours of operation.
Sec. 46-142.	Massage therapist permit.
Sec. 46-143.	Reserved.
Sec. 46-144.	Reserved.
Sec. 46-145.	Display of permits.
Sec. 46-146.	Notification of changes.
Sec. 46-147.	Injunctive relief.
Sec. 46-148.	Fee.
Secs. 46-149--46-180.	Secs. 46-149--46-180. Reserved.

## **Article VI. Junk and Salvage**

Sec. 46. 181.	Definitions.
Sec. 46-182.	Licenses.
Sec. 46-183.	Posting of license; license plates.
Sec. 46-184.	Purchases from minors; records; inspections.
Sec. 46-185.	Conditions for operation.
Secs. 46-186 – 46-220.	Reserved.

## **Article VII. Tents and Temporary Structures**

Sec. 46-221.	Permit required; exception.
Sec. 46-222.	Inspection required.
Secs. 46-223 – 46-250.	Reserved.

## **Article VIII. Dancehalls**

Sec. 46-251.	Permit required.
Sec. 46-252.	Permit application and revocation.
Secs. 46-253 – 46-280.	Reserved.

## **Article IX. Security Guards**

Sec. 46-281.	Definitions.
Sec. 46-282.	Permit required.
Sec. 46-283.	Permit application form.
Sec. 46-284.	Fees.

Sec. 46-285.	Photographs and fingerprint cards.
Sec. 46-286.	Age limitation.
Sec. 46-287.	Carrying firearms and other dangerous weapons while on duty.
Sec. 46-288.	Firearms certification of proficiency.
Sec. 46-289.	Notification of termination.
Sec. 46-290.	Return of permit.
Sec. 46-291.	Reporting use of weapons.
Sec. 46-292.	Denial and revocation of permit.
Secs. 46:293 – 46:320	Reserved.

#### **Article X. Closing Out Sales**

Sec. 46-321.	License required.
Sec. 46-322.	License application.
Sec. 46-323.	Extension of time of sale.
Sec. 46-324.	Merchandise for sale.
Sec. 46-325.	Inventory verification.
Sec. 46-326.	License fees.
Sec. 46-327.	Exemptions.
Secs. 46-328--46-360.	Reserved.

#### **Article XI. Razing Buildings**

Sec. 46-361.	Permit required; exceptions; violations; penalties.
Secs. 46-362--46-390.	Reserved.

#### **Article XII. Festivals**

Sec. 46-391.	Definitions.
Sec. 46-392.	Intent.
Sec. 46-393.	License required; application; fees.
Sec. 46-394.	Additional information.
Sec. 46-395.	License transferability and limitations.
Sec. 46-396.	Separate permits; liability for violations; vendor contracts.
Sec. 46-397.	Security bond.
Sec. 46-398.	Applicability of other laws, regulations and ordinances.
Sec. 46-399.	Approval, disapproval, suspension and revocation of license.
Sec. 46-400.	Inspection prior to opening.
Secs. 46-401--46-430.	Reserved.

#### **Article XIII. Fees**

Sec. 46-431.	Established.	05-2015	06/22/15
Secs. 46-432 – 46-499.	Reserved.		

#### **Article XIV. Pet Shops**

Sec. 46-500.	Permit required.
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**ARTICLE I.**  
**IN GENERAL**

**Sec. 46-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*License and permit* are interchangeable.

(Code 1993, § 12.02(1))

**Cross References:** Definitions generally, § 1-2.

**Sec. 46-2. Licenses.**

(a) *Required.* No person shall engage in any business or activity enumerated in section 46-431 without a license for such business or activity as provided by this chapter.

(b) *Application.* Application for a license required by this chapter shall be made to the clerk-treasurer on a form furnished by the village, and shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the village board.

(c) *Fees.*

(1) *To accompany application; receipt.* License fees imposed under section 46-431 shall accompany the license application. If a license is granted, the clerk-treasurer shall issue the applicant a receipt for his license fee.

(2) *Refunds.* No fee paid shall be refunded unless the license is denied. Denial of any license shall result in a refund of the license fee, less a \$25.00 service charge or the actual license fee, whichever is less.

(d) *Issuance.* Unless otherwise designated, licenses required by this chapter shall be issued by the village clerk-treasurer only with the approval of the village board, or its designee. Any person denied issuance of a license may appeal the denial through the appeal procedure provide by ordinance or resolution of the village board or, if none has been adopted, under the provisions of Wis.Stats. § 68.001 et seq.

(e) *Terms.* All licenses issued under this chapter shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire at 12:00 midnight of the last effective day of the license or unless otherwise provided by this chapter or law.

(f) *Form.* All licenses issued under this chapter shall show the dates of issue and expiration, and the activity licensed, and shall be signed by the clerk-treasurer.

(g) *Records.* The clerk-treasurer shall keep a record of all licenses issued.

(h) *Display.* All licenses issued under this chapter shall be displayed upon the premises or vehicle for which the license was issued or, if carried on the person, shall be displayed to any officer of the village, upon request.

(i) *Compliance required.* Any person holding a license under this chapter shall comply with all portions of this Code. Failure to do so shall be cause for suspension or revocation of the license.

(j) *Transferability.* All licenses issued under this chapter shall be personal to the persons issued such licenses, and no license shall be transferred without the consent of the village board.

(k) *Exemptions.* No license shall be required under this chapter for any nonprofit, educational, charitable, civic, military or religious organizations, if the activity which would otherwise be licensed is conducted for the benefit of the members of such organization or the public generally.

(l) *Inspections.*

(1) *Consent.* An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the village upon the licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or law.

(2) *Reinspections.* License fees cover the costs of an initial inspection and one reinspection. Second and subsequent reinspections require a reinspection fee as set by the village board.

(m) *Revocation and suspension.*

(1) Except as otherwise provided, any license issued under this chapter may be revoked by the village board for cause. No license shall be revoked, except upon written, verified complaint filed with the village board by the president, a member of the village board, the chief of police, chair of the license committee or a resident of the village. The licensee shall be served with a written copy of the charges and shall be given an opportunity to be heard before the village board. The licensee shall be given notice of such hearing, which shall not be more than 20, nor less than five days after such notice, except as otherwise agreed between the parties.

(2) At such hearing, the licensee shall be entitled to be represented by counsel, have the right to present and cross examine witnesses and, upon request,

have subpoenas issued by the president or presiding officer of the village board to compel the attendance of witnesses.

- (3) After hearing the evidence, the village board may revoke such license or impose a limited period of suspension. The determination of the village board shall be final, subject to review under Wis. Stats. ch. 68, provided, the licensee shall not be entitled to a further hearing unless granted by the village board.
- (4) The police department shall repossess any license revoked under this subsection (m).
- (5) If the licensee does not apply for a hearing within the time provided, the license may be revoked by the village board.

(Code 1993, § 12.02(2)--(14); Ord. No. 8-2004, 7-26-2004)

### **Sec. 46-3. Violations; penalties.**

In addition to the revocation or suspension of any license or permit issued under the provisions of this chapter, any person found to be in violation of any provision of this chapter shall be subject to a forfeiture as provided in section 1-15, except that, if any person is found to be in violation of the provisions contained in section 6-13(r), the penalty shall be as follows:

- (1) *First offense.* Any person who shall violate the provisions of section 6-13(r) shall, upon conviction, forfeit not less than \$250.00, nor more than \$500.00, together with the cost of prosecution, and, in default of payment of such forfeiture and cost of prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
- (2) *Second offense.* Any person found guilty of violating section 6-13(r), who has previously been convicted of a violation of the same subsection within one year, shall, upon conviction, forfeit not less than \$500.00, nor more than \$1,000.00 for each such offense, together with the cost of prosecution, and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six months.

(Code 1993, § 12.20)

### **Secs. 46-4--46-30. Reserved.**

## ARTICLE II.

### DIRECT SELLERS

#### **Sec. 46-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Charitable organization* includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation.

*Direct seller* means any individual who, for himself or for a partnership, association or corporation, sells goods or takes sales orders for the later delivery of goods at any location other than the permanent business place or residence of such individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

*Goods* includes personal property of any kind and goods provided incidental to services offered or sold.

*Permanent merchant* means a direct seller who, for at least one year prior to the consideration of the application of this article to such merchant, has:

- (1) Continuously operated an established place of business in the village.
- (2) Continuously resided in the village and now does business from his residence.

(Code 1993, § 12.04(2))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 46-32. Registration required.**

No direct seller shall engage in direct sales within the village without being registered for such purpose as provided in this article.

(Code 1993, § 12.04(1))

#### **Sec. 46-33. Exemptions.**

The following shall be exempt from all provisions of this article:

- (1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (2) Any person selling goods at wholesale to dealers in such goods.

- (3) Any person selling agricultural products which he has grown.
- (4) Any permanent merchant, or employee thereof, who takes orders away from the established place of business for goods regularly offered for sale by such merchant within the county and who delivers such goods in his regular course of business.
- (5) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with, and specifically requested a home visit by, such person.
- (6) Any person who has had, or who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- (7) Any person selling, or offering for sale, a service unconnected with the sale, or offering for sale, of goods.
- (8) Any person holding a sale required by statute or order of any court and any person conducting a bona fide auction sale pursuant to law.
- (9) Any employee, officer or agent of a charitable organization who engages in direct sales for, or on behalf of, such organization, provided that proof is submitted to the clerk-treasurer that such charitable organization is registered under Wis. Stats. § 440.42. Any charitable organization not registered under Wis. Stats. § 440.42, or which is exempt from such statute's registration requirements, shall be required to register under this article.
- (10) Any person who claims to be a permanent merchant, but against whom complaint has been made to the clerk-treasurer that such person is a transient merchant, provided that proof is submitted to the clerk-treasurer that such person has leased for at least one year or purchased the premises from which he is conducting business, or proof that such person has conducted such business in the village for at least one year prior to the date the complaint was made.

(Code 1993, § 12.04(3))

**Sec. 46-34. Registration requirements.**

- (a) Applicants for registration must complete and return to the clerk-treasurer a registration form furnished by the clerk-treasurer, which shall require the following information:
  - (1) Applicant's name, permanent address, telephone number and temporary address, if any.

- (2) Applicant's age, height, weight, and color of hair and eyes.
  - (3) Name, address and telephone number of the person that the direct seller represents or is employed by, or whose merchandise is being sold.
  - (4) Temporary address and telephone number from which business will be conducted, if any.
  - (5) Nature of business to be conducted and a brief description of the goods and any services offered.
  - (6) Proposed method of delivery of goods, if applicable.
  - (7) Name, model and license number of any vehicle to be used by the applicant in the conduct of his business.
  - (8) Last cities, villages, towns, not to exceed three, where the applicant conducted a similar business.
  - (9) Place where the applicant can be contacted for at least seven days after leaving the village.
  - (10) Statement as to whether the applicant has been convicted, within the last five years, of any crime or ordinance violation related to the applicant's transient merchant business; the nature of the offense; and the place of conviction.
- (b) The applicant shall present the following to the clerk-treasurer for examination:
- (1) A driver's license or some other proof of identity as may be reasonably required.
  - (2) A state certificate of examination and approval from the sealer of weights and measures when the applicant's business requires the use of weighing and measuring devices approved by state authorities.
  - (3) A state health officer's certificate when applicant's business involves the handling of food or clothing and is required to be certified under law, and such certificate shall state that the applicant is apparently free from any contagious or infectious disease, and dated not more than 90 days prior to the date the application for license is made.
- (c) At the time the registration is returned, the fee prescribed in section 46-431 shall be paid to the clerk-treasurer to cover the cost of processing such registration.

(d) The applicant shall sign a statement appointing the clerk-treasurer as his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, if the applicant cannot be served personally, after reasonable effort.

(e) Upon payment of the fee as required in subsection (c) of this section, and the signing of the statement as set forth in subsection (d) of this section, the clerk-treasurer shall register the applicant as a direct seller and date the entry. Such registration shall be valid for a period of one year from the date of entry, subject to subsequent refusal as provided in section 46-35(b).

(Code 1993, § 12.04(4))

#### **Sec. 46-35. Investigation.**

(a) Upon receipt of each application, the clerk-treasurer may immediately refer the application to the chief of police, who may make and complete an investigation of the statements made in such application.

(b) The clerk-treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation as set forth in subsection (a) of this section, that:

- (1) The application contains any material omission or materially inaccurate statement;
- (2) Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three, in which the applicant conducted a similar business;
- (3) The applicant was convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or
- (4) The applicant failed to comply with any applicable provision of section 46-34(b).

(Code 1993, § 12.04(5))

#### **Sec. 46-36. Appeals.**

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the village board or, if none has been adopted, under the provisions of Wis. Stats. §§ 68.07--68.16.

(Code 1993, § 12.04(6))

#### **Sec. 46-37. Regulations.**

- (a) *Prohibited practices.*

- (1) A direct seller shall be prohibited from calling at:
  - a. Any dwelling or other place between the hours of 7:00 p.m. and 9:00 a.m., except by appointment.
  - b. Any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of a similar meaning.
  - c. The rear door of any dwelling place or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- (2) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his visit, his identity or the identity of the organization he represents. A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale price of the goods.
- (3) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
- (4) No direct seller shall make any loud noise or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside an 100-foot radius of the source.
- (5) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he is conducting business.

(b) *Disclosure requirements.*

- (1) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.
- (2) If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel such transaction if it involves the extension of credit or is a cash transaction of more than \$25.00, in accordance with the procedure as set forth in Wis. Stats. § 423.203(1)(a), (b), (c), (2) and (3).

- (3) If the direct seller takes a sales order for the later delivery of goods, at the time the order is taken, he shall provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, whether a guarantee or warranty is provided and, if so, the terms thereof.

(Code 1993, § 12.04(7))

**Sec. 46-38. Records of convictions of violations.**

The chief of police shall report to the clerk-treasurer all convictions for violations of this article, and the clerk-treasurer shall note any such violations on the records of the registrants convicted.

(Code 1993, § 12.04(8))

**Sec. 46-39. Revocation of registration.**

(a) A registration may be revoked by the village board, after notice and hearing, if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this article, or was convicted of any crime, or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(b) Written notice of the hearing shall be personally served on the registrant at least 72 hours prior to the time set for the hearing. Such notice shall contain the time and place of the hearing and a statement of the acts upon which the hearing will be based.

(Code 1993, § 12.04(9))

**Secs. 46-40--46-70. Reserved.**

**ARTICLE III.**

**AMUSEMENTS**

**Sec. 46-71. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Amusement center* means any business, excluding one for which the village has issued a "Class B" fermented malt beverage and intoxicating liquor license, that has on its premises five or more amusement devices as defined in this section and available for use by the public. If the application for an operator's license as required by section 46-72(a) reveals that five or more of

such amusement devices shall be in operation, upon approval of such application by the village board, the applicant shall pay to the village the fee in section 46-431 for each such amusement center, together with the fee per each device as required by section 46-72(b).

*Coin-operated amusement device* means any machine which, upon the insertion of a coin, slug, token, plate, disc or similar item, may be operated as a game, entertainment, contest of skill or amusement, whether or not registering a score. Such term shall include, but not be limited to, such devices as electronic or mechanical game machines, pinball machines, bowling machines, pool tables, jukeboxes and any other mechanical or electronic games or operations similar thereto, except such term shall not include coin-operated merchandise vending machines.

*Operator* means any owner, lessee, manager or employee of an amusement center who manages or operates an amusement center or business at which one or more coin-operated amusement devices are operable.

*Owner* means the person, firm, partnership or association which owns an amusement center or which owns a business at which one or more coin-operated amusement devices are operable.

(Code 1993, § 12.05(1))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 46-72. Amusement device license.**

(a) *Operator's license.* No person shall set up for operation, maintain, keep or permit on a premises owned, leased or controlled by him any amusement device without having obtained an operator's license as provided in this article. Every applicant for an operator's license shall make application to the village board on a form furnished by the clerk-treasurer. Such application shall state the applicant's name, residence address, address at which the amusement devices are to be located and the number of amusement devices. All applicants shall have been residents of the state continuously for at least one year prior to the date of filing the application and shall be 18 years of age or older. Licenses may be granted by the village board for a period not to exceed one year. Applications shall be filed for renewal of the license in the same manner as for an original license. If a license is issued after the beginning of the license year, the fee shall be 1/12 of the annual fee for each month, or fraction thereof, remaining in the license year. Such license shall not be transferable. The licensee may replace an amusement device any number of times by another amusement device, but at no time shall such amusement devices on any one premises exceed the number permitted by the license relating to the premises.

(b) *Amusement center license.* If the application for an operator's license reveals that five or more amusement devices shall be in operation, upon approval of such application by the village board, the applicant shall pay the amusement center license fee set forth in section 46-431, plus the fee for each amusement device.

(c) *Distance requirement.* No amusement center license or coin-operated amusement device license shall be granted for any place of business located within 300 feet of any church building, school building, hospital building or nursing home building unless a license granted

under this article was in effect prior to the occupation of real property within 300 feet thereof by such institution or facility. Such distance shall be measured along the shortest route, by sidewalk or street, from the main entrance of the proposed licensed premises to the main entrance of any such institution or facility.  
(Code 1993, § 12.05(2))

#### **Sec. 46-73. Regulations.**

(a) *Use by minors during school hours.* No owner, operator or person in charge of an amusement center shall permit any person under the age of 18 years to play or use a coin-operated amusement device during the normal academic school year for Racine Unified School District between 7:00 a.m. and 3:00 p.m. on any day in which regular classes are in session, except if such minor is present with his parent, guardian or adult spouse.

(b) *Use by minors during certain hours.* No owner, operator or person in charge of an amusement center or business holding one or more coin-operated amusement device licenses shall permit any person under the age of 18 years to play or use any coin-operated amusement device between 9:00 p.m. and 8:00 a.m. unless such minor is accompanied by his parent, guardian or other adult person having legal custody or control of the minor.

(c) *Locking entrance; inspections.* The entrance to any amusement center licensed under this article shall not be locked during any time that the amusement center is open for business. Each licensee of an amusement center agrees that village officers and employees charged with law enforcement or inspection functions may enter the licensed premises at any time during normal business hours for the purpose of inspecting the premises and enforcing the laws and ordinances relating to the operation thereof.

(d) *Lighting.* At all times that an amusement center licensed under this article is open for business, lighting shall be provided throughout the amusement center in the amount of not less than 25 footcandles, measured at the playing surface level of each amusement device.

(e) *Excessive noise.* No operator or owner of an amusement center or business to which one or more coin-operated amusement device licenses are in effect shall permit the level of sound resulting from operation of the amusement center or coin-operated amusement devices to exceed the limitations in the zoning ordinance (chapter 90 of this Code).

(f) *Hours of operation.* No operator or owner shall permit an amusement center licensed under this article to be open between the hours of 11:00 p.m. and 9:00 a.m. of any day, except upon application and consent of the village board and except that this subsection shall not apply to any premises which is licensed to dispense alcohol beverages.  
(Code 1993, § 12.05(3); Ord. No. 4-04, § 12.05(3)(g), 4-26-2004)

**Sec. 46-74. Violations; penalties.**

Any person convicted of a violation of the following provisions shall be punished as follows:

Section	Violation	Penalty
6-13(r)	Gambling or use of games of chance which are prohibited	\$ 50.00
46-72(b)	Failure to obtain amusement center license	50.00
46-73(c)	Failure to comply with inspection requests	100.00
Any other ordinance		20.00

**Secs. 46-75--46-100. Reserved.**

**ARTICLE IV.**

**POOL, BILLIARDS AND BOWLING**

**Sec. 46-101. License required.**

No person shall set up for operation, maintain, keep or permit on premises owned, leased or controlled by him, any public pool room, billiard hall, bowling alley or any place in which billiards, pool tables or bowling alleys shall be kept for public use within the village without having obtained a license as provided in this article.  
(Code 1993, § 12.06(1))

**Sec. 46-102. License application.**

The license application shall state:

- (1) The name of the applicant;
- (2) The applicant's residence address;
- (3) The address at which the pool room, billiard hall, bowling alley or such other place is to be located; and
- (4) The number of pool tables, billiard tables or bowling alleys to be located thereat.

(Code 1993, § 12.06(2))

### **Sec. 46-103. Requirements and restrictions.**

All applicants shall have been continuous residents of the state for at least one year prior to the date of filing the application and shall be 18 years of age or older. Applications shall be filed for renewal of a license in the same manner as for an original license. Such license shall not be transferable. The licensee may replace any such table with another table or may replace any such alley with another alley any number of times, but at no time shall the number of such tables or alleys on any one premises exceed the number permitted by the license relating to the premises. Each such table or alley shall have a plate securely attached to it, bearing the name of the licensee thereof. Every such licensee shall operate and maintain the licensed premises so as to comply with the applicable provisions of this Code.

(Code 1993, § 12.06(3))

### **Secs. 46-104--46-130. Reserved.**

## **ARTICLE V.**

### **MASSAGE**

### **Sec. 46-131. Purpose and intent.**

It is the purpose and intent of the village that the operation of massage establishments as defined in section 46-132 shall be regulated so as to further the public interest, safety and welfare by providing minimum building, sanitation and health standards for massage establishments.

(Code 1993, § 12.07(1); Ord. No. 5-2007, 6-11-2007)

### **Sec. 46-132. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Health officer* means the health officer of the village or his authorized representative.

*Massage* means the manipulation of the soft tissue of the body for therapeutic purposes and may include, but is not limited to, effleurage, petrissage, tapotement, compression, vibration, friction, stroking or kneading, either by hand or with a mechanical or electrical apparatus, for the purpose of body massage. This may include the use of oil, salt glows, hot and cold packs and other recognized forms of massage therapy. The term does not include diagnosis or any service or procedure for which a license to practice medicine is required by law.

*Massage establishment* means a place where the primary or secondary function is to offer massage by a massage therapist.

*Massage therapist* means a person who holds a permit issued under this article to administer massages.

(Code 1993, § 12.07(2))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 46-133. Massage establishment permits.**

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises within the village, as the owner or operator of a massage establishment, without having procured a permit as provided in this article, nor without complying with all statutes, ordinances and regulations applicable to such establishment and unless such permit is in effect at the time of such operation.

(Code 1993, § 12.07(3))

#### **Sec. 46-134. Exemptions.**

The permits required by this article shall not apply to hospitals, nursing homes and sanitariums (see section 46-142(c)).

(Code 1993, § 12.07(6))

#### **Sec. 46-135. Massage establishment permit application.**

The application for a massage establishment permit shall be upon a form provided by the clerk-treasurer and shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name and address of each applicant. If the applicant is a corporation, the names and residence addresses of each of the officers and directors of the corporation and each stockholder owning more than ten percent of the stock of the corporation shall be set forth. If the applicant is a partnership, the names and residence addresses of each of the partners, including limited partners, shall be set forth. In addition, any applicant for such a permit shall furnish the following information:

- (1) The two previous addresses, if any, for the three years immediately prior to the present address of the applicant.
- (2) Written proof that the individual or partnership applicant is over the age of 18 years.
- (3) The individual or partnership applicant's height, weight, color of eyes, hair and sex.
- (4) Two portrait photographs, at least two inches by two inches, taken within six months of the date of the initial application and every five years thereafter.
- (5) The business, occupation or employment of the applicant for the three years immediately preceding the date of the application.

- (6) The history of the applicant in the operation of a massage establishment or similar business or occupation, including, but not limited to, whether or not such person, in previously operating in this or another city or state under a permit, has had such permit revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.
- (7) All criminal convictions, other than misdemeanor traffic violations, and the reasons therefor.
- (8) Such other identification and information necessary to discover the truth of the matters as required in subsections (1)--(7) of this section to be set forth in the application.

(Code 1993, § 12.07(4))

**Sec. 46-136. Investigation.**

Applications for massage establishment licenses under this article shall be referred to the chief of police, who shall cause an investigation to be made and report his findings to the health officer. Applicants shall cooperate with any investigation conducted under this article and permit access to the proposed place of business and facilities in conjunction with any investigation.

(Code 1993, § 12.07(5); Ord. No. 5-2007, 6-11-2007)

**Sec. 46-137. Issuance or denial of massage establishment permit; insurance required.**

(a) *Issuance.* The village board shall issue a massage establishment permit if, upon investigation and the reports filed, it is found that the:

- (1) Operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including, but not limited to, the village's building, plumbing, electrical, zoning and health regulations and the provisions of this article.
- (2) Applicant has not been convicted in a court of competent jurisdiction of an offense involving lewd conduct, nor an offense involving the use of force and violence upon the person of another.
- (3) Applicant has not knowingly, and with the intent to deceive, made any false, misleading or fraudulent statement of fact in the permit application or any other document required by the village in conjunction therewith.
- (4) Applicant, if a corporation, is licensed to do business and is in good standing in the state.

(b) *Insurance.* No person may carry on the business of operating a massage establishment at any place within the village without a premises and professional liability insurance.

(c) *Notice of denial.* If the permit is denied, notification and reasons for denial shall be set forth in writing and sent to the applicant by registered or certified mail or hand delivered to the address given in the application.

(Code 1993, § 12.07(7))

#### **Sec. 46-138. Temporary massage establishment permit.**

Upon application for a massage establishment permit, the village clerk-treasurer shall be authorized to issue a temporary massage establishment permit to any applicant who is currently the owner or operator of such an establishment, pending review and investigation of the application submitted pursuant to this article. Such temporary permit shall remain in effect for a period of 30 days or until the issuance of the permit applied for, unless the permit is denied for any of the reasons set forth in section 46-137, in which event, the temporary permit shall be of no further force and effect.

(Code 1993, § 12.07(8))

#### **Sec. 46-139. Sanitation requirements.**

(a) All premises used by massage establishment permittees shall be subject to periodic inspection by the village for safety of the structure and the propriety of plumbing, electrical wiring, ventilation, heating and sanitation. The massage room shall have a minimum of 40 watts of lighting for the purpose of observing possible contraindications of massage. The walls shall be clean and painted with an approved washable, mold resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition.

(b) Towels, sheets and linens of all types and items for the personal use of operators and patrons shall be clean and freshly laundered. Towels, clothes and sheets shall not be used for more than one person. Reuse of such linens is prohibited unless the linens have first been laundered. Heavy white paper may be substituted for sheets, provided that such paper is used once for each person and then discarded into a sanitary receptacle.

(c) Every massage establishment shall have a minimum of one wash basin.

(Code 1993, § 12.07(9))

#### **Sec. 46-140. Transferability of massage establishment permit.**

No massage establishment permit shall be transferable, except with the written approval of the village board. An application for such a transfer shall be in writing and shall be accompanied by a filing and investigation fee as set by the village board, no part of which shall

be refundable. The application for such transfer shall contain the same information as required in this article for an initial application for such a permit. In the event of a denial of such transfer application, notification and reasons for such denial shall be set forth in writing and shall be sent to the applicant by means of registered or certified mail or hand delivered.  
(Code 1993, § 12.07(10))

**Sec. 46-141. Hours of operation.**

Massage establishments shall commence operations no earlier than 6:00 a.m. and end no later than 9:00 p.m.  
(Code 1993, § 12.07(12))

**Sec. 46-142. Massage therapist permit.**

(a) *Reserved.*

(b) *On-site massages.* On-site massages shall include home visits and massage in public buildings. This privilege shall be available only to massage therapists who qualify for a general massage permit pursuant to this article. The permit must accompany the massage therapist on all site visits. When doing on-site massage at hotels, motels and resorts, massage therapists shall register at the desk or office. A massage shall not be given unless a client's genitals are fully covered at all times by linens or towels. Massage therapists shall be attired in clean clothing.

(c) *Exemptions.* This section does not apply to:

- (1) Physicians, surgeons, chiropractors, osteopaths, nurses or physical therapists licensed or registered to practice their respective professions under law.
- (2) Barbers and cosmetologists licensed under law, provided that such massage practiced is limited to the head and scalp.
- (3) Accredited high schools and colleges, and coaches and trainers therein while acting within the scope of their employment.
- (4) Trainers of any amateur, semiprofessional athlete or athletic team.

(Code 1993, § 12.07(11); Ord. No. 5-2007, 6-11-2007)

**Sec. 46-143. Reserved.**

**Editors Note:** Ord. No. 5-2007, adopted June 11, 2007, deleted § 46-143, which pertained to the investigation of massage therapist permit applicants and fees and derived from Code 1993, § 12.07(13).

**Sec. 46-144. Reserved.**

**Editors Note:** Ord. No. 5-2007, adopted June 11, 2007, deleted § 46-144, which pertained to the issuance or denial of massage therapist permits and derived from Code 1993, § 12.07(14).

**Sec. 46-145. Display of permits.**

The owner or operator shall display the massage establishment permit issued by the village and the permit of each and every massage therapist employed in the establishment in an open and conspicuous place on the premises.

(Code 1993, § 12.07(15))

**Sec. 46-146. Notification of changes.**

Every massage establishment owner or operator shall immediately report to the clerk-treasurer any and all changes of address or ownership of the massage establishment.

(Code 1993, § 12.07(16); Ord. No. 5-2007, 6-11-2007)

**Sec. 46-147. Injunctive relief.**

In addition to the legal remedies provided for in this article, the operation of any massage establishment in violation of the terms of this article shall be deemed a public nuisance and may be enjoined by the village.

(Code 1993, § 12.07(17))

**Sec. 46-148. Fee.**

The fee for all licenses and permits provided for by this article shall be as stated in section 46-431.

(Code 1993, § 12.07(18))

**Secs. 46-149--46-180. Reserved.**

## ARTICLE VI.

### JUNK AND SALVAGE

#### **Sec. 46-181. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Junk* means waste paper, rags, old metal and other material commonly known as junk.

*Junk dealer* means a person who engages in the business of operating a junkyard in the village.

*Junkyard* and *salvage yard* mean any open or enclosed yard, or any building or other structure, or any combination thereof, where junk is collected, stored or processed or where the business of dealing in, breaking up or storing dismantled or salvaged motor vehicles is conducted.

*Salvage dealer* means a person licensed by the state department of transportation under the provisions of Wis. Stats. subch. VII of ch. 218 (Wis. Stats. § 218.20 et seq.) to carry on or conduct the business of wrecking, processing, scrapping, recycling or dismantling of motor vehicles, or selling parts thereof, or to purchase motor vehicles for resale for such purposes.

*Vehicle* means every device in, upon or by which any person or property is, or may be, transported or drawn, except a cart propelled by human energy.  
(Code 1993, § 12.09(1))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 46-182. Licenses.**

(a) *Application.* No person shall engage in the business of junk dealer or salvage dealer in the village without obtaining a license from the village board. Application for such license shall be made, in writing, to the village board, and shall include the name under which the applicant is transacting business within the village; the place where the business is to be conducted, which must be an established place of business; if the applicant is a sole proprietorship, the personal name and address of the applicant; if the applicant is a partnership, the name and address of each partner; if the applicant is a corporation, the names and addresses of the corporation's principal officers; and such other pertinent information as may be required by the village board for the purpose of determining the eligibility of the applicant to be licensed. Applications for renewal of licenses shall be filed in the same manner as applications for an original license.

(b) *Transferability.* No license issued under the provisions of this article shall be transferable either as to person or location.

(c) *Denial.* The village board may deny any application for a junk dealer's or salvage dealer's license when, in the discretion of the village board, the location or operation, or both, of such business or yard will be detrimental to the public health, sanitation or welfare, or if such application is not accompanied by a petition requesting the issuance of such license and signed by the owners of at least two-thirds of all land, exclusive of streets, alleys, highways and public lands, within a distance of 1,000 feet from any point on any exterior boundary line of such proposed junkyard or salvage yard.  
(Code 1993, § 12.09(2))

#### **Sec. 46-183. Posting of license; license plates.**

(a) Every license issued under this article shall be posted in a conspicuous place at the business or yard designated in such license, and the license shall not be removed or defaced in any manner as long as it is in force.

(b) At the time of issuing a license under the provisions of this article, the clerk-treasurer shall issue an appropriate license plate for each vehicle operated by such licensee covered by such license, and such license plate shall be securely fastened on the outside of each such vehicle and remain thereon while the license covering the vehicle is in force. No person shall remove or deface any such license plate.  
(Code 1993, § 12.09(3))

#### **Sec. 46-184. Purchases from minors; records; inspections.**

(a) No purchase of any junk shall be made by any person to whom a license is issued under this article from any minor, without the written consent of the parent or guardian of such minor, which written consent shall be kept on file with the records of such licensee.

(b) Every person to whom a license is issued under the provisions of this article shall keep and maintain complete and accurate records of all purchases of junk.

(c) By acceptance of any such license, the holder thereof agrees that any official of the village may inspect any junkyard or vehicle owned or operated by such license holder for the collection of junk and may inspect all records of purchases of junk made by him.  
(Code 1993, § 12.09(4))

#### **Sec. 46-185. Conditions for operation.**

(a) *Hours of collections.* No junk shall be collected by any person to whom a license is issued under this article between the hours of 8:00 p.m. and 7:00 a.m. of the following day or at any hour on Sunday.

(b) *Operation of machinery.* No junk or salvage dealer shall operate, cause to be operated, or permit to be operated any machinery in any junkyard between the hours of 8:00 p.m. and 6:00 a.m. of the following day or at any hour on Sunday unless written permission to do so has been obtained from the village board.

(c) *Enclosures.* Every junkyard or salvage yard shall be enclosed in such manner as the village board may order, in writing, at any time before or after the issuance of a license under this article for such junkyard or salvage yard, and which enclosure, in the discretion of the village board, is necessary to preserve the surrounding property from depreciation or for other sufficient reason.

(Code 1993, § 12.09(5))

**Secs. 46-186--46-220. Reserved.**

## **ARTICLE VII.**

### **TENTS AND TEMPORARY STRUCTURES**

#### **Sec. 46-221. Permit required; exception.**

No person shall erect a tent or other temporary structure for the conduct of business, entertainment or other activity to which the public is invited without first obtaining a permit from the clerk-treasurer for such tent or temporary structure, except a tent or canopy may be used for a private gathering on residential property without a permit.

(Ord. No. 3-01, § 12.01(10)(1), 9-24-2001)

#### **Sec. 46-222. Inspection required.**

No permit shall be issued under this article until the tent or temporary structure has been inspected by the fire inspector and/or such other officials of the village as are necessary to ensure the safety and welfare of the public using such tent or temporary structure.

(Ord. No. 3-01, § 12.01(10)(2), 9-24-2001)

**Secs. 46-223--46-250. Reserved.**

## **ARTICLE VIII.**

### **DANCEHALLS**

#### **Sec. 46-251. Permit required.**

No dancing shall be permitted in any building for which a retail class B alcohol beverage license has been granted, nor shall any dancing be permitted in any room or building which is in direct connection or communication, or contiguous to the room for which a class B alcohol

beverage license has been granted unless the licensee first has obtained from the clerk-treasurer, after approval of the village board, a permit specifically authorizing such dancing.  
(Code 1993, § 12.12(10))

#### **Sec. 46-252. Permit application and revocation.**

Application for a dance permit shall be made, in writing, to the village board through the clerk-treasurer, on such form as the clerk-treasurer shall provide. The application shall disclose the location of the premises for which the permit is desired, the size of the area on which dancing is to be permitted and such other information as the village board may require from time to time by resolution. The application shall contain a provision indicating that the applicant understands and agrees that the permit sought may be revoked by the village board at any time upon ten days' notice to the permittee of the reason for the proposed cancellation and an opportunity to be heard under the provisions of this chapter. It shall be further specified and agreed that the violation of any guidelines relating to operation of the premises upon which dancing is permitted and the conduct of dancers, adopted by the village board by resolution, shall be grounds for revocation of any permit issued.

(Code 1993, § 12.12(2))

**Secs. 46-253--46-280. Reserved.**

### **ARTICLE IX.**

#### **SECURITY GUARDS**

#### **Sec. 46-281. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Armed guard* means a person whose principal duty is that of a uniformed security guard and who carries or has access to a firearm in the performance of such duties.

*Permit* means a watchman and guard permit issued by the police department in compliance with Wis. Stats. § 440.26(5m).

*Watchman and guard* means any person who is an employee of a private licensed agency that supplies uniformed security guards and whose duties are to exclusively patrol the private property of industrial plants, business establishments, schools, hospitals, sports stadiums, exhibits and similar activities, and who guards or patrols in uniform for the purpose of protecting persons or property, but does not include a person not required by Wis. Stats. § 440.26(5) to obtain a watchman or guard permit.

(Code 1993, § 12.14(1))

**Cross References:** Definitions generally, § 1-2.

**Sec. 46-282. Permit required.**

No person shall be employed by a private licensed agency to act or perform as a guard or watchman without a permit from the police department. The permit shall be carried on the guard's or watchman's person while performing the duties of watchman or guard. Such permit shall be issued, maintained and annually renewed.

(Code 1993, § 12.14(2))

**Sec. 46-283. Permit application form.**

The application form for a uniformed guard or watchman permit shall be furnished to the employing agency by the police department. The form shall contain an accurate description of the applicant, the employing agency's name and the applicant's present and past addresses. The application for a watchman or guard permit shall be made by the licensed agency that employs the watchman or guard.

(Code 1993, § 12.14(3))

**Sec. 46-284. Fees.**

The employing agency shall pay a fee, as stated in section 46-431, to the police department when the employee's application for a watchman and guard permit is filed. The individual applicant shall pay a fee, as stated in section 46-431, to the village for the issuance and annual renewal of a guard and watchman permit.

(Code 1993, § 12.14(4))

**Sec. 46-285. Photographs and fingerprint cards.**

The applicant shall furnish two fingerprint cards and one recent photograph with the application form.

(Code 1993, § 12.14(5))

**Sec. 46-286. Age limitation.**

No permit shall be issued under this article to any person under the age of 18 years.

(Code 1993, § 12.14(6))

**Sec. 46-287. Carrying firearms and other dangerous weapons while on duty.**

No principal or employee of any agency shall carry on, about or near his person any firearm or other dangerous weapon while on duty unless the person is:

(1) Certified as being proficient in the care, handling and use of such weapon.

(2) A peace officer as defined in Wis. Stats. § 939.22(22).

(Code 1993, § 12.14(7))

**Sec. 46-288. Firearms certification of proficiency.**

Proficiency in the care, handling and use of a weapon shall be certified as to any principal or employee of an agency before assignment with a weapon and annually thereafter.

- (1) Certification may be made by any person competent to attest to the proficiency of the principal or employee in question. Such certification shall be notarized and include:
  - a. A full and complete description of each type of weapon with which the principal or employee is proficient in the care, handling and use.
  - b. Statements to the effect that the principal or employee understands safety rules, range rules and the procedures for the care and cleaning of each type of weapon with which he is proficient, and that he understands the legal limits on the use of such weapon.
  - c. Proof that the principal or employee has met the minimum marksmanship standards set forth in the most recent Wisconsin Law Enforcement Firearms Manual, published by the Training and Standards Bureau, Division of Law Enforcement Services, Wisconsin Department of Justice, State Capitol, Madison, Wisconsin, 53702, which is incorporated by reference in this section as if fully set forth in this section.
- (2) A copy of the certification shall be presented to the police department upon original application for a permit under this article and annually thereafter.

(Code 1993, § 12.14(8))

**Sec. 46-289. Notification of termination.**

A licensed agency under this article shall immediately inform the issuing officer at the police department of all terminations of guards or watchmen who have been issued permits.

(Code 1993, § 12.14(9))

**Sec. 46-290. Return of permit.**

In the event of termination of watchmen or guards possessing permits under this article, the employing agency shall obtain and return such permits to the police department within 72 hours of such termination.

(Code 1993, § 12.14(10))

#### **Sec. 46-291. Reporting use of weapons.**

If any principal or employee of any agency is responsible for the accidental or intentional discharge of any firearm (other than in target practice, competition or licensed hunting), or the accidental or intentional use of deadly force by any means while on duty, he shall, within one hour, notify the appropriate law enforcement agencies and inform his supervisor of the incident. The supervisor or another person assigned by the agency shall investigate and make a signed, written report; identify all persons involved, the investigator and agency; and fully describe the circumstances of such incident. One copy of the report shall be filed with the state department of regulation and licensing, and another copy shall be filed with the police department within seven days. A negligent or reckless discharge of a weapon may be cause for revocation of a firearms permit.

(Code 1993, § 12.14(11))

#### **Sec. 46-292. Denial and revocation of permit.**

A watchman and guard permit may be denied or revoked by the police department if the:

- (1) Application contains false information.
- (2) Applicant is subject to a pending criminal charge and the circumstances of the charge substantially relate to the activities of a watchman or guard.
- (3) Applicant has been convicted of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the activities of a watchman or guard.
- (4) Applicant fails to comply with the requirements of section 46-288 and is employed as an armed guard or watchman.

(Code 1993, § 12.14(12))

#### **Secs. 46-293--46-320. Reserved.**

### **ARTICLE X.**

#### **CLOSING OUT SALES**

#### **Sec. 46-321. License required.**

No person shall conduct, within the village, a closing out sale of merchandise, except as provided in this article. Every person shall obtain a village license before retailing or advertising for retail any merchandise represented to be merchandise of a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer or any business that is in liquidation that is closing out, closing or disposing of its stock, or a particular part or department thereof, that has lost its lease, or has been, or is being, forced out of business, that is disposing of stock on hand because of damage by fire, water, smoke or other

cause, or that, for any reason, is forced to dispose of stock on hand. Such license is denominated as a closing out sale license, and such sale as a closing out sale. Such license shall be obtained in advance if such advertisement or representation, expressed or implied, tends to lead people to believe that such sale is a selling out or closing out sale.  
(Code 1993, § 12.15(1))

#### **Sec. 46-322. License application.**

Every person requiring a closing out sale license shall make an application, in writing, to the clerk-treasurer, on the form provided by the clerk-treasurer, and shall attach thereto an inventory containing a complete and accurate list of the stock of merchandise on hand to be sold at such sale, and shall have attached thereto an affidavit by the applicant or his duly authorized agent that the inventory is true and correct to the knowledge of the person making such affidavit. Such affidavit shall include the names and addresses of the principals, such as the partners, officers and directors and the principal stockholders and owners of the business, and of the inventoried merchandise. Such inventory shall contain the cost price of the respective articles enumerated on such inventory, together with the date of purchases and the identity of the seller. If the merchandise was purchased for a lump sum or other circumstances make the listing of the cost price for each article impracticable, such inventory shall state the lump sum paid for such merchandise and the circumstances of the purchase. Such application shall further specify the name and address of the applicant, and, if an agent, the person for whom he is acting as an agent, the place at which such sale is to be conducted and the time during which the proposed sale is to continue. Upon receipt of such application, the clerk-treasurer shall ascertain whether any personal property taxes are unpaid relating to applicant's place of business and before such application is granted, the personal property taxes shall be paid or arrangements made for such payment which are agreeable to the clerk-treasurer. The license shall specify the period for which it is granted, which time shall not exceed 60 successive days, except Sundays and legal holidays.  
(Code 1993, § 12.15(2))

#### **Sec. 46-323. Extension of time of sale.**

The time during which the sale may be conducted may be extended by the clerk-treasurer if, at any time during the term of the license, a written application for such extension, duly verified by an affidavit of the applicant, is filed by such licensee with the clerk-treasurer. Such application shall state the amount of merchandise listed in the original inventory which has been sold, the amount which still remains for sale, and the time for which an extension is requested. No extension shall be granted if any merchandise has been added to the stock listed in the inventory since the date of the license, and the applicant shall satisfy the clerk-treasurer by affidavit or otherwise, as directed by him, that no merchandise has been added to the stock since the date of issuance of the license. The clerk-treasurer may grant or deny the application and, if granted, the period of the extension shall be determined by the clerk-treasurer, but shall not exceed 30 days from the expiration of the original license. If such extension is granted, the extension shall be issued by the clerk-treasurer upon the payment of an additional license fee per day for the time during which it is granted, as stated in section 46-431.  
(Code 1993, § 12.15(3))

**Sec. 46-324. Merchandise for sale.**

No person shall sell or offer to expose for sale at any sale for which a license is required by this article any merchandise not listed in the inventory as required by section 46-322, except that any merchant may, in the regular course of business, conduct a closing out sale of merchandise and, at the same time, sell other merchandise, if the merchandise for the sale of which a license is required shall be distinguished by a tag or otherwise so that the merchandise of such class is readily ascertainable to prospective purchasers, and shall not label or tag other merchandise in a manner to indicate or lead a prospective purchaser to believe that such merchandise is of the class for which a license is required. Each article sold in violation of the provisions of this section shall constitute a separate offense, and any false or misleading statement in such inventory, application or extension application shall constitute a violation of this article.

(Code 1993, § 12.15(4))

**Sec. 46-325. Inventory verification.**

The clerk-treasurer shall verify the details of the inventory as filed in connection with an application for a license under this article and shall also verify the items of merchandise sold during any sale under such license, and no licensee shall refuse to furnish, on demand to the clerk-treasurer, or any person designated by him for such purpose, all the facts connected with the stock on hand or any other information that the clerk-treasurer or his designee may reasonably require in order to make a thorough investigation of all phases of such sale, as far as they relate to the rights of the public.

(Code 1993, § 12.15(5))

**Sec. 46-326. License fees.**

The fees for a license under this article shall be as stated in section 46-431.

(Code 1993, § 12.15(6))

**Sec. 46-327. Exemptions.**

This article shall not apply to sales by public officers or sales under judicial process.

(Code 1993, § 12.15(7))

**Secs. 46-328--46-360. Reserved.**

## ARTICLE XI.

### RAZING BUILDINGS\*

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\* **Cross References:** Buildings and building regulations, ch. 14.

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#### **Sec. 46-361. Permit required; exceptions; violations; penalties.**

(a) No person shall cause a building in the village to be wrecked, razed or otherwise destroyed without first obtaining a permit from the building inspector, except under the following conditions:

- (1) The building is under 800 square feet or is a farm accessory building.
- (2) The building is not hooked up to a natural gas service line, a public or community water line and/or a sanitary sewer line.

(b) Each building wrecked, razed or otherwise destroyed without a permit shall constitute a separate violation of this section. The forfeiture to be imposed upon conviction of a violation of this section shall not be less than \$100.00, nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, such person shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.

(Code 1993, § 12.16)

**Secs. 46-362--46-390. Reserved.**

## ARTICLE XII.

### FESTIVALS

#### **Sec. 46-391. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Festival* includes any exhibition, parade, museum, carnival, circus, or any indoor or outdoor music concert or other entertainment, or any celebration or commemoration of any day or event which is:

- (1) Open to the public.
- (2) Temporary in nature (i.e., not lasting more than 15 days in one calendar year).

- (3) Intended or is reasonably anticipated that 1,000 or more people in total will attend.

Events lasting more than 15 days shall be considered permanent in nature and, while not subject to licensing under this article, shall be subject to all other applicable ordinances, laws and regulations.

(Code 1993, § 12.19(1))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 46-392. Intent.**

It is the intent of the village board to regulate festivals to provide for the health, safety and welfare of all persons, residents and visitors alike, who attend festivals in the village.

(Code 1993, § 12.19(2))

#### **Sec. 46-393. License required; application; fees.**

(a) No person shall promote, operate, conduct or maintain a festival in the village without a license for such festival or in a manner contrary to the terms of this article or any other applicable ordinance, law or regulation. A minimum nonrefundable fee as provided in section 46-431 shall be charged for the license and shall be submitted by the applicant to the clerk-treasurer with a written application. The application shall be submitted not less than 60 days before the proposed festival.

(b) If it is determined the village will incur administrative costs or costs associated with providing fire, police, utility and emergency services as a result of the festival, which costs exceed the minimum license fee, the village board may require additional licensing fees in an amount sufficient to pay all or a portion of the expenses which will be incurred by the village.

(c) Approval, conditional approval or denial of applications shall be made by the village board following review and recommendations by the chief of police, fire chief, health officer, public works director, highway superintendent, license committee and plan commission of the village.

(d) The applicant shall include the following information in the application:

- (1) Name, address and date of birth of the applicant and, if such application is made in a representative capacity, the name, address and place of business of the applicant, and references, if required by the village.
- (2) Address, telephone number and description of the proposed festival site.
- (3) A description of the uses, activities, business or operations to occur on the festival site as part of the festival, the festival events scheduled, the hours and dates of operation of the festival, projected attendance in total and the projected largest attendance at any one time.

- (4) Name, address and place of business of any vendor that will sell or distribute any food, drink or other product or who will operate any ride, carnival or other entertainment at the festival.
- (5) A description of any proposed construction plans for the site to accommodate the festival, including descriptions of temporary structures, such as bleachers, if any.
- (6) A description of the parking facilities and parking supervision, with access roads for vehicular traffic designated, and projected largest number of vehicles anticipated at any one time.
- (7) A proposed security plan for maintaining order and preserving the safety of the persons attending the festival, as well as for the security and safety of property and persons near the proposed festival site, which shall include a description of any proposed private security guards, police and fire protection, rescue and emergency squad protection and the communication system to be utilized to ensure proper communication in the event of an emergency.
- (8) A description of the utility and sanitary services necessary to operate the festival, which shall include a description of the electrical and water services to be utilized, as well as toilet facilities.
- (9) A description of proposed disabled facilities, which shall include a description of disabled parking and access.
- (10) If alcohol beverages are to be sold or consumed, a description of the proposed vending site, the hours of operation for selling or serving of alcohol beverages and the proposed means of preventing minors from frequenting or loitering near the areas where alcohol beverages are served or consumed.
- (11) The applicant's agreement to indemnify and hold harmless the village, its agents, officers and employees from any and all liability which may arise from occurrences at the festival, including any claims or damages arising out of conduct or violation of law by vendors.
- (12) A certificate of insurance or an insurance commitment naming the village, its agents, officers and employees as named insureds on the applicant's policy of applicable liability insurance for the festival, with limits of liability not less than \$1,000,000.00 per occurrence and \$1,000,000.00 in the aggregate. Insurance covering liquor liability shall be required if alcohol beverages are sold or consumed on the site.

- (13) Proof of required state licenses and inspections, if amusement rides are on the site.

(Code 1993, § 12.19(3))

**Sec. 46-394. Additional information.**

The police chief, fire chief, health officer, highway superintendent, public works director, license committee, plan commission and village board may require the applicant to supplement the application or provide additional information which is necessary to fulfill the intent of this article.

(Code 1993, § 12.19(4))

**Sec. 46-395. License transferability and limitations.**

Any license obtained by an applicant for a festival is not transferable from one person to another and is limited to events, days and hours specified by the village board.

(Code 1993, § 12.19(5))

**Sec. 46-396. Separate permits; liability for violations; vendor contracts.**

(a) No separate village direct seller's permit, food permit or amusement license is required of any vendor named in the application and under contract with the festival license holder, except permits and licenses necessary to sell and serve alcohol beverages.

(b) The festival license holder shall be directly liable to the village for violation of any law or any damage arising out of any violation of any law by any vendor under contract with the permit license holder.

(c) All contracts pertaining to vendors at the festival must be on file with the clerk-treasurer before the commencement of the festival. No vendor shall be permitted to operate at the festival who has not been named by the applicant and who does not have a written contract with the festival license holder.

(Code 1993, § 12.19(6))

**Sec. 46-397. Security bond.**

As a condition of the issuance of a license under this article, the village board may require the applicant to deposit cash or a surety bond in an amount sufficient to secure the full and complete performance of all obligations of the applicant and all conditions upon which the license was issued.

(Code 1993, § 12.19(7))

**Sec. 46-398. Applicability of other laws, regulations and ordinances.**

Except as set forth in section 46-396, the applicant and any vendor under contract with the applicant shall comply with all other applicable laws and regulations, including the zoning

ordinance of the village (chapter 90 of this Code).  
(Code 1993, § 12.19(8))

**Sec. 46-399. Approval, disapproval, suspension and revocation of license.**

(a) The village board may deny any license application which does not comply with this article or when the proposed festival poses a threat to the health, safety or welfare of any person in the village. The village board may approve the application and grant the license on such conditions it imposes for purposes of protecting the health, safety and welfare of persons in the village.

(b) A license may be suspended or revoked by the village board upon a determination that the applicant has failed to comply with this article, any condition imposed under this article or violation of any other applicable law or regulation. The police chief, fire chief or health officer may suspend the operation of any festival, or any part thereof, upon a determination that it is operating in violation of this article or any other law or regulation and such violation poses a threat to the health, safety or welfare of persons in the village. Such suspension shall remain in effect until the village board can meet and consider the matter.  
(Code 1993, § 12.19(9))

**Sec. 46-400. Inspection prior to opening.**

Before any festival may be opened, inspections shall be conducted to assure the health, safety and welfare of all persons in the village and adherence to the license issued under this article. Such inspections shall be conducted by the village health officer, fire chief, police chief, building inspector, highway superintendent and public works director. Proof of required state inspections shall be required.  
(Code 1993, § 12.19(10))

**Secs. 46-401--46-430. Reserved.**

**ARTICLE XIII.**

**FEEES**

**Sec. 46-431. Established.**

Unless otherwise indicated, a license and annual fee shall be required as follows:

- (1) Amusement centers . . . . . \$500.00  
Plus, per device . . . . . 40.00
- (2) Amusement devices . . . . . 40.00
- (3) Cabarets:

- a. Per day . . . . . 25.00
  - b. Per year . . . . . 150.00
- (4) Closing out sales:
  - a. Not to exceed 15 days . . . . . 25.00
  - b. Not to exceed 30 days . . . . . 50.00
  - c. Not to exceed 60 days . . . . . 75.00
  - d. Additional days shall be \$1.00 per \$1,000.00 of the price set forth on the inventory.
  - e. Extension . . . . . 25.00
- (5) Dancehalls . . . . . 100.00
- (6) Direct sellers . . . . . 50.00
  - Four days or less . . . . . 25.00
- (7) Festival licenses . . . . . 100.00
  - Plus, per day . . . . . 50.00
- (8) Junk and salvage dealers . . . . . 250.00
- (9) Lodginghouses:
  - a. Each lodging room . . . . . 25.00
  - b. Permit . . . . . 100.00
- (10) Massage therapy establishments . . . . . 100.00
- (11) Pool halls, billiard halls and bowling alleys, per table or bowling alley . . . . . 25.00
- (12) Tents and temporary structures . . . . . 50.00
- (13) Watchman and guard permits:
  - a. Applicant, issuance and annual renewal . . . . . 5.00

- b. Employing agent, upon filing application . . . . . 10.00
- (14) Wrecking permits . . . . . 50.00
- (15) Weights and measures program.
  - a. *Application of state codes.* Except as otherwise specifically provided in this section, the statutory provisions provided in this section, the statutory provisions of Wis. Stats. ch. 98, Weights and Measures, and Admin. Code, ATCP 92, Weighing and Measuring Devices, are hereby adopted and by reference made part of this section as if fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes incorporated herein or Wisconsin Administrative Code provisions incorporated herein are intended to be made part of this section. This section is adopted pursuant to the provisions of Wis. Stats. ch. 98.
  - b. *Appointment of inspectors.* In order to assure compliance with this section, the village hereby grants the authority and duties of sealers and inspectors required by this section to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.
  - c. *Definitions.*
    - 1. *Commercial weighing or measuring devices.* Devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight and measure.
    - 2. *Weights and measures program.* The program that includes administration and enforcement of this section, Wis. Stats. ch. 98, and applicable Wisconsin Administrative Code provisions, and any related actions.
  - d. *Weights and measures license required.*
    - 1. *License requirements.* Except as provided in subsection 2., no person shall operate or maintain any commercial weighing or measuring devices, or any other weights and measures systems and accessories related thereto which are

used commercially within the village for determining the weight, measure or count unless each such device is licensed by an annual weights and measures license issued pursuant to the provisions of this section.

2. *Exemptions.* Sales permitted at a farmers market or sales permitted by direct sellers, transient merchants, and solicitors are exempt from licensing under this section.
- e. *Application for license.* An application for a weights and measures license shall be made in writing on a form provided for such purpose by the village clerk and shall be signed by the owner of the commercial business or by its authorized agent. Such applications shall state the type and number of weighing and measuring devices to be licensed, location of the devices, the applicant's full name and post office address, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the name and address of all officers and agents of the applicant, including the registered agent thereof.
- f. *Issuance of license and fees.* Upon compliance with this section, the village clerk shall issue a license to the applicant upon payment of an annual license fee set by the village board. Each store or other business shall require a separate license. The license fee shall not be prorated for a partial year.
- g. *License term.* A license issued under this section shall expire on June 30 of each year.
- h. *Enforcement for nonrenewal.* It shall be the duty of the village clerk to notify the appropriate village officials and to order the immediate enforcement of the provisions of this section in cases involving a failure to renew weights and measures license. A licensee shall be prohibited from operating or maintaining a weighing or measuring device until such time as a valid license has been obtained under the provisions of this section.
- i. *Fees assessment.*
  1. *Annual assessment.* The village board shall annually assess fees to each licensee based on the number and types of weighing and measuring devices licenses as of July 1 of each year. The total of the fees assessed and the fees

collected shall not exceed the actual costs of the weights and measures program.

2. *Clerk to prepare assessment schedule.* The village clerk shall at least annually prepare a proposed schedule of assessments to be submitted to the village board. A copy of the proposed schedule together with notice of the date and time at which the village board will consider the assessments shall be mailed to each licensee.
3. *Village board determines assessment.* At least ten days after such mailing the village board shall consider the clerk's proposed schedule of assessments and determine the schedule of assessments on a reasonable basis. The village clerk shall mail to each licensee an invoice for the amount of the fee assessment to the licensee as determined by the village board and each licensee shall pay the fee assessed within 30 days after the date the invoice is mailed.
4. *Failure to pay assessment.* If the assessed fee is not paid within 30 days of the date of the mailing of the invoice, an additional administrative collection charge of ten percent of the total fee shall be added to the amount due, plus interest shall accrue thereon at the rate of one point five percent per month or fraction thereof until paid. To the extent permitted by law, if the licensee is the owner of the real estate premises where the licensed weights and measures devices are located, any delinquent assessment shall be extended upon the current or the next tax roll as a special charge against the real estate premises for current services. No licensee shall be issued or renewed under this section if the licensee is delinquent in the payment of a fee assessed under this section.
5. *Mailing of notices.* Schedules, notices and invoices shall be considered mailed to the licensee when mailed by first class mail, postage prepaid, to the licensee at the licensee's address as shown on the application form.
6. *Change of ownership.* If the ownership of a commercial business licensed under this section is transferred during a license year, the owner of the business as of July 1 of the license year shall be liable and responsible for the payment of the fees assessed under this section.

- j. *Penalty.* In addition to any other remedy, any person who fails to comply with the provisions of this subsection (15) shall, upon conviction thereof, forfeit not less than \$250.00 no more than \$500.00. Each day a violation exists or continues shall constitute a separate offense.
- k. *Contract with State of Wisconsin.* In lieu of enforcing the weights and measures ordinance, the Village Board of Mt. Pleasant may contract with the State of Wisconsin Department of Agriculture, Trade and Consumer Protection to furnish the services and perform the duties of sealers of weights and measures required in Wis. Stats. § 98.04(1), as amended. In the event the village contracts with the state or renews any existing contract the village may collect fees not to exceed the costs pursuant to statute. (Code 1993, § 12.01; Ord. No. 3-01, § 12.01(10), 9-24-2001; Ord. No. 3-02, § 12.01, 3-25-2002; Ord. No. 15-2005, § I, 8-8-2005)

**Secs. 46-432--46-499. Reserved.**

## **ARTICLE XIV.**

### **PET SHOPS**

**Sec. 46-500. Permit required.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Animal.* Any living vertebrate, domestic or wild, except a human being.
- (2) *Disinfectant.* An agent, usually a chemical, that kills growing forms, but not necessarily resistant spore forms, of disease-producing microorganisms.
- (3) *Disinfecting.* The act of destroying infectious agents.
- (4) *Humane officer.* Any person appointed by the village as a humane enforcement officer who is qualified to perform duties of animal control as provided by the laws of the state and the village.
- (5) *Pet.* Any animal kept for pleasure rather than utility.
- (6) *Pet shop.* Any person, partnership or corporation, whether operated separately or in connection with another business enterprise that sells, offers to sell, exchanges, or offers for adoption with or without charge or

donation dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets. However, a person who sells only such animals that he has produced and raised shall not be considered a pet shop under this section and a veterinary hospital or clinic operated by a licensed veterinarian or veterinarians shall not be considered a pet shop under this section.

- (7) *Pet shop operator.* Any person who sells, offers to sell, exchanges, or offers for adoption with or without charge or donation dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets. However, a person who sells only such animals that he has produced and raised shall not be considered a pet shop operator under this section and a veterinary hospital or clinic operated by a licensed veterinarian or veterinarians shall not be considered a pet shop operator under this article.

(b) *Sale or release of certain animals restricted.*

- (1) *Animal unfit for sale or release.* The following shall deem an animal unfit for sale or release:
- a. Obvious signs of infectious disease such as distemper, hepatitis, leptospirosis, rabies, para influenza (kennel cough) or other similar diseases.
  - b. Obvious signs of nutritional deficiencies, which may include rickets, emaciation, etc.
  - c. Obvious signs of severe parasitism.
  - d. Obvious fractures or congenital abnormalities affecting the general health of the animal.
  - e. Skin diseases such as ringworm or fungus.
- (2) *Restriction of sale.* The Humane officer or other appropriate village official may restrict the sale of any animal suspected of being diseased or otherwise unfit for sale. An examination by a veterinarian, at the expense of the enforcement agency, may be requested.

(c) *Purchase, keeping or sale of endangered or dangerous species.* No pet shop shall engage in the purchase, keeping or sale of any species of primates, bats, foxes, raccoons, skunks, turtles, turtle eggs, poisonous snakes, or any species of animal considered "endangered" or considered a public health hazard by the U.S.D.A. or the Food and Drug Administration, unless licensed by federal permit issued for the sale of endangered species.

(d) *Pet shop permit.*

- (1) *Required.* No person, party, firm or corporation shall operate a pet shop without first applying for and obtaining a permit in compliance with the village code. Application for any permit required under this section shall be made on a form provided by the village clerk. The village clerk, in conjunction with the humane officer, shall determine the contents of the application. Applications for permits shall be submitted to the village clerk along with the appropriate fee. Applications will be reviewed for compliance with this section.
- (2) *Issuance.* When all applicable provisions of this section have been complied with by the applicant and a valid occupancy permit for this type of business has been issued by the village building inspector, the village's finance/legal/license committee shall review the application and shall approve the permit if this section's requirements are met. the village clerk shall issue any approved permit to operate.

(e) *Term.* The permit period for a pet shop shall be from July 1 until June 30 of the following year. Renewal applications for pet shop permits shall be made not later than May 30th of each year. Application for a permit to establish a new pet shop under the provisions of this section may be made at any time.

(f) *Permit and inspection fees; examination fees.* The initial annual permit and the renewal fees for each pet shop shall be set by resolution of the village board from time-to-time. Application for a renewal permit made after June 30 for the following calendar year shall be assessed a late fee of \$15.00. If there is a change in ownership of a pet shop, the new owner may request that the current permit be transferred to the new name upon payment of a transfer fee of \$10.00 and review by the finance/legal/license committee. Inspection and Examination Fees shall be set by resolution of the village board from time-to-time.

(g) *Display of permit.* The current permit issued under this section must be prominently displayed at the permitted premises.

(h) *Enforcement.*

- (1) *Notice of violation.* Whenever the humane officer or other appropriate village official, upon inspection, is aware of any violation of this section, the permittee shall be notified by means of a written notice of inspection. This notice of inspection shall contain references to the specific conditions found, the corrections necessary, and a specific and reasonable time for compliance.
- (2) *Service of notice.* Each notice or order provided under this section will be considered to have been properly served when it has been delivered

personally, or when it has been mailed, postage prepaid, by first-class mail with return receipt requested, to the permit holder.

- (3) *Suspension/revocation of permit.* If, at the end of the period specified in the notice served under subsection (2) of this section, a reinspection by the humane officer or other appropriate village official reveals that corrections have not been made, the humane officer or other appropriate village official shall give the permit holder notice in writing that it intends to suspend or revoke the permit.
- (4) *Appeal of suspension/revocation order.* Any permit holder who has received a notice of intention to suspend or revoke the pet shop permit may, within 30 days after service of this notice, demand a hearing before the village's finance/legal/license committee. Enforcement of any order issued by the humane officer or other appropriate village official, and any proceedings to suspend the permit, shall be stayed pending decision of the committee.
- (5) *Hearing.* The finance/legal/license committee shall conduct the hearing on any appeal filed by a permit holder under this section. At the conclusion of such a hearing, the committee may sustain, modify or withdraw the notice or order, depending upon its findings as to whether the provisions of this section have been complied with. The finance/legal/license committee may also modify any order so as to authorize a variance from the provisions of this section if a literal enforcement of these provisions will result in practical difficulty or unnecessary hardship because of special conditions. If the committee sustains or modifies a notice or order, the permit holder shall comply with all provisions of the order within a reasonable period of time, as determined by the committee. If the committee upholds a notice of intention to suspend or revoke any permit required by this section, then that permit shall be suspended or revoked as of the date of the hearing, until all provisions of the order are fulfilled. Any subsequent appeal shall be pursuant to Title 4 of this Code.

(i) *Inspections.* Inspection of the premises and animals of a permit holder under this section to determine compliance with this section may be made by the humane officer or other appropriate village official or authorized agents during normal business hours or with reasonable notice during nonbusiness hours. Any applicant for a permit under this section consents to such inspections. The right of entry, inspection and examination shall include the right to take photographs, obtain biological samples and remove ill or injured animals from the premises for treatment and evidence. The permit holder shall be responsible for the costs of all inspections and examinations and shall pay any fees for such inspections and examinations within ten days of notice of the costs and fees. A failure to pay shall be a reason to suspend or revoke the permit. The village may pursue all remedies available at law and equity for collection of such costs and fees owed to it.

(j) *Operator requirements.*

- (1) *Record of sale.* Each permit holder under this section shall keep accurate records of each dog, cat or bird sale for a minimum period of 12 months after the date of sale or transfer of such animal, and shall include the source of such animal, date of sale, description, approximate age, sex of animal sold, and the name and address of purchaser. Records of sales of small mammals and fish are not required.
- (2) *Record of prophylactic medication and immunization.* A record of prophylactic medication and immunization, the type, amount and date of each, shall be kept by the permit holder under this section and shall become a part of the retail sales record.
- (3) *Dogs, cats and ferrets to be immunized against rabies.* No pet shop operator shall sell or offer for sale any dog, cat or ferret five or more months old unless the animal has been vaccinated against rabies by use of an approved live, attenuated rabies virus vaccine administered by a licensed veterinarian.
- (4) *Reasonable care.* Each permit holder under this section shall take reasonable care to release for sale, trade or adoption only those animals which are free of disease, injuries or abnormalities. A health certificate issued by a licensed veterinarian for any such animal within 30 days before such sale, trade or adoption is prima facie evidence that the permit holder has taken reasonable care as required by this section.
- (5) *Statutory compliance.* Full compliance with the provisions of Wis. Stats. Ch. 951, shall be mandatory.

(k) *Written statement required for purchase.* The permit holder under this section shall furnish the purchaser with a written statement at the time of sale. The statement shall show:

- (1) *Date of sale.*
- (2) Name, address and telephone number of both permit holder and purchaser.
- (3) Breed, description and approximate age, if dog or cat.
- (4) Prophylactic medication and immunizations and dates administered; if none, so state.
- (5) Internal parasite medication and date administered; if none, so state.
- (6) Guarantee, if offered; if none, so state.

(1) *Standards.* All pet shops selling animals, birds and fish as pets shall, in addition to the other requirements of this section, comply with the following standards. Failure to meet these standards shall be grounds for denial, suspension or revocation of a permit:

- (1) All animals, birds or fish shall be displayed in a healthy condition, or, if ill, removed from display and shall be given appropriate treatment immediately.
- (2) All the animals shall be quartered, and the quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair.
- (3) The room temperature of the pet shop shall be maintained at a level that does not present a health hazard to any species of animal kept in the shop.
- (4) There shall be sufficient, clean, dry bedding to meet the needs of each individual animal. Litter and/or bedding material shall be changed at least daily and there shall be adequate ventilation to prevent an odor nuisance.
- (5) Feces shall be removed from pens and enclosures at least daily, or more frequently if necessary to prevent unsanitary conditions and odor nuisance, and stored in tightly covered containers until final disposal.
- (6) All cages and enclosures are to be of a nonporous material for cleaning and disinfecting and shall have secure latches in good repair. Each cage must be of sufficient size that the animal will have room to stand, turn and stretch out to its full length. Cages will be cleaned every day, including Sundays and holidays.
- (7) The floor and walls of any room in which animals are kept shall be covered with impervious, smooth, cleanable surfaces. The floors and walls shall be cleaned and disinfected as often as necessary to prevent an odor nuisance.
- (8) The premises shall be kept free of insect and rodent infestations. Food supplies shall be stored in rodentproof containers.
- (9) There shall be available hot water for washing cages. Fresh drinking water shall be available to all species at all times. All water containers shall be mounted so that the animal cannot easily turn them over and shall be removable for cleaning.
- (10) Food for all dogs and cats shall be served in a clean dish, so mounted that the animal cannot readily tip it over or defecate or urinate in such dish.

- (11) Adult dogs and cats shall be fed at least once a day. In the case of young dogs and cats, they shall be fed more than once daily. All other animals and birds must be fed and watered according to the accepted procedure for that species.
- (12) The permittee or its representative shall be present for general care and maintenance of animals at least once daily.
- (13) Shade is required. Shade from the direct rays of the sun shall be provided for all animals.
- (14) Each bird must have sufficient room to sit on a perch. Perches shall be placed horizontally to each other in the same cage. Cages must be cleaned every day and cages must be disinfected when birds are sold. Parrots and other large birds shall have separate cages from smaller birds.
- (15) Cats shall be provided with litter pans at all times. The pans shall be cleaned and sanitized at least once daily, or more often if necessary.
- (16) Any permit holder offering medication with the sale of an Animal shall take steps to ensure that such medication is properly labeled for ease of identification, should it be accidentally ingested.

(m) *Penalty.* Any person who violates any provision of this section shall upon conviction be subjected to a forfeiture of not less than \$300.00 or more than \$1,000.00 for each violation, and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.  
(Ord. No. 14-2009, § 31, 10-26-2009)

**Chapters 47--49**

**RESERVED**

## Chapter 50

### MOBILE HOMES\*

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\* **Cross References:** Buildings and building regulations, ch. 14; health and sanitation, ch. 38; solid waste, ch. 66; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74; utilities, ch. 82; zoning, ch. 90.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
Sec. 50-1.	Definitions.		
Sec. 50-2.	Permanent residence.		
Sec. 50-3.	Trailer camp and mobile home park licenses.		
Sec. 50-4.	Trailer camp and mobile home park requirements.		
Sec. 50-5.	License revocation.		
Sec. 50-6.	Monthly parking fee imposed.		
Sec. 50-7.	Zoning.		
Sec. 50-8.	Nondependent mobile homes.		

## **Sec. 50-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Licensee* means any person licensed to operate and maintain a mobile home park.

*Licensing authority* means the village.

*Mobile home* means that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters or is intended to be so used, and includes any addition, attachment, annex, foundation and appurtenance, except a house trailer is not deemed a mobile home if the assessable value of such addition, attachment, annex, foundation and appurtenance equals or exceeds 50 percent of the assessable value of the house trailer.

*Mobile home, dependent*, means a mobile home which does not have complete bathroom facilities.

*Mobile home, nondependent*, means a mobile home equipped with complete bath and toilet facilities, all furniture, cooking and heating appliances, and complete yearround facilities.

*Mobile home park* means any plot of ground upon which two or more units, occupied for dwelling and sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

*Park* means a mobile home park.

*Person* means any natural individual, firm, trust, partnership, association or corporation.

*Public health and safety* means the highest degree of protection against infection, contagion, disease and fire that a trailer camp or mobile home park will reasonably permit.

*Space* means a plot of ground within a mobile home park which is designed for the accommodation of one mobile home unit.

*Trailer* means any vehicle, house car, camp car, or portable or mobile vehicle on wheels, skids, rollers or blocks, either self-propelled or propelled by any other means, which is used or designed to be used for residential, living or sleeping purposes.

*Trailer camp* means any area or premises on which space available for two or more trailers is rented or held for rent, or on which free occupancy or camping for such number of trailers is permitted to trailer owners, but not including automobile or trailer sales lots on which only unoccupied trailers are parked for purposes of inspection or sale.

*Trailer site* means a tract or parcel of land on which one or more trailers are usually kept or parked.

*Unit* means a mobile home unit.  
(Code 1993, § 12.10(1))  
**Cross References:** Definitions generally, § 1-2.

### **Sec. 50-2. Permanent residence.**

No person shall establish a permanent residence in a trailer or mobile home located in the village unless the trailer or mobile home shall be located in a trailer camp or mobile home park or is wholly located at least 1,000 feet from the near side of any other structure, whether or not such other structure is used for human habitation. A person shall be deemed to be using a trailer or mobile home as a permanent residence within the meaning of this chapter if such person has used the trailer or mobile home for human habitation for a period of 60 days within a period of six continuous months.  
(Code 1993, § 12.10(2))

### **Sec. 50-3. Trailer camp and mobile home park licenses.**

(a) *Required.* No person shall construct, establish, place, operate, maintain or offer for public use, with or without compensation, any trailer camp or mobile home park in the village without first obtaining a license to do so from the village board. The total number of units, trailers or mobile homes that may be parked or kept in any one trailer camp or mobile home park pursuant to such license is limited to 100 units, trailers or mobile homes.

(b) *Application; fees.* Application for such license shall be filed with the clerk-treasurer on a form prescribed by the village board and shall contain a statement of the name and address of the applicant; the location and legal description of the trailer camp or mobile home park, giving the address, exterior dimensions, maximum number of trailers or mobile homes to be accommodated, the actual or proposed sanitary facilities and fire prevention to be maintained and such other pertinent information as the village board may require. Such application shall be accompanied by a plat or plan of the trailer camp or mobile home park showing the actual or proposed location of all trailers or mobile homes, the location of streets, the location of toilets, showers or baths and all other sanitary facilities, the location of fire prevention apparatus, the location of lighting facilities and such other information as the village board may require. Such application shall be accompanied by a license fee computed according to the number of trailers or mobile homes located in such trailer camp or mobile home park on the date such application is filed with the clerk-treasurer, as follows:

- (1) Fifty or less mobile homes, as set by the village board. (Also see Wis. Stats. § 66.0435.)
- (2) Each additional 50 trailers or mobile homes, or fraction thereof, as set by the village board.

(c) *Determination of fees in excess of \$100.00.* In determining the amount of such license fee in excess of \$100.00, trailers or mobile homes located in any trailer camp or mobile home park solely for storage purposes or sale, or both, and which are not used or offered for use for residential, living or sleeping purposes, shall not be counted in determining the number of trailers or mobile homes located in any such trailer camp or mobile home park.

(d) *Consent to inspections.* By filing such application, the applicant shall be deemed to have consented to an inspection, prior to the issuance of the license, by the village board and any appropriate village official for the purpose of determining whether or not such license should be granted.

(e) *Issuance or denial.* The village board may issue or deny a license in the exercise of its discretion, having due regard to the effect of the establishment of such trailer camp or mobile home park upon the public health, safety and welfare. Not more than one license shall be issued for the location of a trailer camp or mobile home park in any one common school district of the village as such common school district is defined by statute, if such development would cause the school costs to increase above the state average or if an exceedingly difficult or impossible situation exists with regard to providing adequate and proper sewage disposal therein, provided that such prohibition as to the number of licenses that may be issued for trailer camps or mobile home parks located in a common school district shall not apply to trailer camps or mobile home parks located in the village on the date the ordinance from which this subsection is derived becomes effective.

(f) *Applications for renewal; transferability; posting.* Application for a license renewal shall be filed in the same manner as an application for an original license and upon payment of the applicable fee as provided in subsection (b) of this section. Such license shall not be transferable either as to the applicant or as to the licensed premises. Such license, when issued, shall be and remain posted in a conspicuous place at the licensed premises at all times that the license remains in force.

(Code 1993, § 12.01(8), 12.10(3); Ord. No. 14-2009, § 25, 10-26, 2009)

#### **Sec. 50-4. Trailer camp and mobile home park requirements.**

(a) *Conditions of license.* Every trailer camp or mobile home park for which a license is issued under the provisions of this chapter shall be established, maintained and operated in strict conformity with the provisions of this chapter and, by acceptance of such license, the licensee shall be deemed to have agreed with the village board to comply with all of the provisions of this chapter and to consent to the entry on the licensed premises by any village official at all reasonable times for the purpose of inspecting the premises.

(b) *Drainage and sewage.* Every trailer camp or mobile home park shall be located on a well drained site and shall be graded or adequately drained to eliminate the collection of surface waters at any point therein. Adequate provision shall be made for the disposal of all sewage by means of duly constructed and maintained septic tanks or other lawful sewage disposal equipment. All provisions for sewage disposal shall be installed and maintained in accordance with the applicable provisions of the village and state plumbing codes.

(c) *Water supply.* A supply of pure water for drinking and domestic purposes shall be provided in an amount sufficient to care for the needs of the maximum number of persons capable of being accommodated therein. All wells supplying water for such camp shall be constructed and maintained in accordance with the applicable provisions of the state well construction code.

(d) *Toilets, showers, baths and laundry tubs.* There shall be established and maintained in every trailer camp or mobile home park a separate toilet and shower or bath for each sex per each ten trailers or mobile homes, and a two-compartment laundry tub, with running water, for each of ten units. All such toilets, showers, baths, laundry tubs and water facilities shall be connected to the sewage disposal system or have separate and adequate disposal facilities therein for each waste product, as the circumstances require, and all of the facilities shall be maintained in good working order. All toilets, showers, baths and laundry tubs shall have concrete floors and every room in which a toilet is located shall have at least one window. Toilets shall be water flushed.

(e) *Garbage and refuse receptacles.* Every trailer camp or mobile home park shall be provided with a sufficient number of light metal receptacles, with closefitting metal covers, for garbage and refuse, and such receptacles shall be emptied at least once each week.

(f) *Spacing.* Every trailer or mobile home in a trailer camp or mobile home park shall be located on a space not less than 1,000 square feet in area, and all such spaces shall be arranged in rows, facing on a continuous driveway which is at least 25 feet in width, and each space shall have a frontage on such driveway of at least 30 feet. No structure shall be located closer than ten feet to the exterior boundary line of any space. No lean-to, shack, tent, room or similar structure of a detachable nature shall be attached to any trailer or mobile home located in a trailer camp or mobile home park, other than as may be required for the housing of equipment for the furnishing of power, light, water, gas or similar service to such trailer or mobile home. Any and all extensions in the area of a trailer camp or mobile home park existing on the date the ordinance from which this chapter is derived takes effect, made after such date, as well as all trailer camps or mobile home parks constructed after such date, shall be laid out and maintained with regard to the spacing of trailers or mobile homes located, or to be located, therein, so as to meet the requirements of this subsection or the requirements of the county zoning ordinance, as applicable thereto, whichever requires the greater area of such spacing.

(g) *Lighting.* Every trailer camp or mobile home park and every toilet, shower, bath and laundry shall be provided with adequate lighting facilities to make them safe for use at all times. All lights for the lighting of the trailer camp or mobile home park, in general, and the driveways therein, shall be kept lighted from one-half hour after sunset until sunrise of the following day.

(h) *Foundations.* All trailer sites and mobile home spaces shall be of concrete or an equivalent material.

(i) *Registration.* A person to whom a license is granted for the operation of any trailer camp or mobile home park shall maintain a register in which shall be registered the name and permanent address of every person using the trailer camp or mobile home park, a description of every trailer or mobile home located in the trailer camp or mobile home park, together with the license number of the automobile or other vehicle and the trailer or mobile home. Such register shall be open at all times for inspection by any official of the village.

(j) *Health and safety.* The person to whom a license is issued under the provisions of section 50-3 shall promptly report to the building inspector of the village the name of every person located upon the licensed premises whom such licensee knows, or has reason to believe, is infected with a contagious disease. Every trailer or mobile home shall have at least one fire extinguisher, which shall at all times be maintained in good working order. The person to whom a license is granted under this chapter shall at all times maintain and operate the trailer camp or mobile home park for the protection of the public health and safety. All regulations of the state department of health in effect relating to the establishment and maintenance of trailer camps or mobile home parks and which are not in conflict with the provisions of this chapter shall be deemed a part of this subsection with the same force and effect as though set forth in full in this subsection, and the person to whom a license is issued under this chapter shall be responsible for the enforcement of all such regulations of the state department of health in the trailer camp or mobile home park for which such license is issued.

(k) *Residence.* No person, except the licensee to whom a license is issued for the operation of a trailer camp under the provisions of this chapter and the members of his immediate family, shall reside in any trailer camp so licensed for a period of more than six months in any one year, whether such residence shall be continuous or at intermittent periods. Every person to whom such a license is issued shall enforce the provisions of this chapter, and shall promptly report to the village board the name of any person residing in such trailer camp in violation of the provisions of this chapter, together with all information concerning such person and his property as is included in the register required to be maintained by such licensee under the provisions of subsection (i) of this section.

(Code 1993, § 12.10(4); Ord. No. 14-2009, § 26, 10-26, 2009)

#### **Sec. 50-5. License revocation.**

Any person to whom a license has been issued under this chapter who is found to be in violation of any of the provisions of sections 50-3 and 50-4, or fails to pay, or cause to be paid, any special assessment levied against the trailer camp or mobile home park within a period of ten days after such special assessment is required to be paid, may be subject to revocation of his license under the provisions of this chapter. Upon revocation of any license issued under this chapter, no refund of the license fee shall be made and the village board may refuse to grant to such person any further license under the provisions of this chapter.

(Code 1993, § 12.10(5))

**Sec. 50-6. Monthly parking fee imposed.**

There is imposed on each occupied, nonexempt mobile home located in the village, a monthly parking fee as determined in Wis. Stats. § 66.0435. Such fees shall be paid to the clerk-treasurer on or before the tenth day of the month following the month for which such fees are due.

(Code 1993, § 12.10(6))

**Sec. 50-7. Zoning.**

Whenever there is any conflict between the provisions of this chapter and the provisions of any applicable zoning ordinance, the provision which is the most restrictive shall apply with respect to the establishment and operation of any trailer camp or mobile home park in the village.

(Code 1993, § 12.10(7))

**Sec. 50-8. Nondependent mobile homes.**

A mobile home park harboring only nondependent mobile homes shall not be subject to the provisions of section 50-4(d).

(Code 1993, § 12.10(8))

**Chapters 51--53**

**RESERVED**

## Chapter 54

### OFFENSES AND MISCELLANEOUS PROVISIONS\*

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\* **Cross References:** Court, ch. 18; law enforcement, ch. 42; traffic and vehicles, ch. 78.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
Sec. 54-1.	Weapons.		
Sec. 54-2.	Fireworks.		
Sec. 54-3.	Trespassing on land.		
Sec. 54-4.	Certain trespasses.		
Sec. 54-5.	Unreasonable noise.		
Sec. 54-6.	911 emergency telephone system.		
Sec. 54-7.	Parties to ordinance violations.		
Sec. 54-8.	Alcohol beverages.		
Sec. 54-9.	Loitering.		
Sec. 54-10.	Littering.		
Sec. 54-11.	Curfew.		
Sec. 54-12.	Rummage and garage sales.		
Sec. 54-13.	Obscenity defined.		
Sec. 54-14.	Racing.		
Sec. 54-15.	Fortunetellers.		
Sec. 54-16.	Auto sales and repairs.		
Sec. 54-17.	Habitual truant.		
Sec. 54-18.	Violations; penalties.		
Sec. 54-19.	Offenses against state laws subject to forfeiture.		
Sec. 54-20.	Sex offender residency restrictions	02-2014 06-2017	01/13/14 07/31/17
Sec. 54-21.	Prohibited conduct of designated sex offender	02-2014 06-2017	01/13/14 07/31/17

## **Sec. 54-1. Weapons.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Permitted weapon* means a shotgun with a load not to exceed BB shot, and any bow and arrow, but not including crossbows.

*Weapon* means any gun, pistol, rifle, airgun or other device used to propel a missile in the form of a ball, bullet, slug, BB shot or pellet, whether the propelling force is gunpowder, an explosive, compressed air, mechanical action or any other force.

(b) *Discharge.*

(1) *Prohibited area.* No person shall discharge a weapon within the area in the village described as follows:

Commencing at the most southeasterly point of the village, at Lake Michigan, proceed westerly on CTH KR, as extended, to its intersection with STH 31; thence north on STH 31 to its intersection with Braun Road; thence west on Braun Road to its intersection with 90th Street; thence following the westerly boundary line of the Village of Sturtevant to its intersection with CTH H, north of STH 11; thence north on CTH H to its intersection with Fancher Road; thence north on Fancher Road to its intersection with Gittings Road; thence east on Gittings Road to its intersection with Airline Road; thence south on Airline Road to its intersection with CTH C; thence east on CTH C to its intersection with Emmertsen Road; thence north on Emmertsen Road to its intersection with STH 38; thence east on STH 38 to the easternmost village limits.

(2) *Farmers.* The prohibition set forth in subsection (b)(1) of this section shall not apply to a farmer owning not less than ten acres who may use a weapon for rodent control on his own premises, provided the missile discharged will stop on or over such farmer's land.

(3) *Use of permitted weapons.*

a. *Permit required.* No person shall discharge a permitted weapon or use a bow and arrow at any time within the prohibited area described in subsection (b)(1) of this section, except the owner of any land within such area may apply to the police department for a yearly permit to discharge a permitted weapon or use a bow and arrow on such owner's land. Such owner shall then certify to the chief of police that any discharge of a permitted weapon or use of a bow and arrow can occur without danger to any other resident of

the village and, in any event, that any discharge of a permitted weapon or use of a bow and arrow can occur not less than 500 feet from any public or private street, alley, highway, park, picnic ground, playground, railroad right-of-way, dwelling, industrial business, professional or mercantile establishment or any school, hospital or other institution. If the chief of police or his designee is satisfied that such land can be so used, he shall grant a permit, which shall contain a description of the owner and his land, together with a statement that such permit may be revoked upon conviction of a violation of any ordinance relating to such issuance, or county ordinance or law which relates to illegal weapons discharge. A permit may be denied or revoked if conditions of the land or surrounding lands change so as to no longer be in compliance with this section. If the chief of police or his designee declines to issue such permit, the affected owner may appeal such decision to the village board for review.

- b. *Guests of permittees.* A person who is a guest of the owner who has been issued a permit under subsection (b)(3)a. of this section may discharge a permitted weapon or use a bow and arrow on the land of the permittee, provided such guest has the owner's written permission on his person at the time.

- (4) *Possession of weapons.* Notwithstanding any other provision of this section, no person shall have any weapon, whether a permitted weapon or otherwise, in the prohibited area described in subsection (b)(1) of this section where a permit to discharge a permitted weapon or use a bow and arrow has not been issued, unless such weapon, whether a permitted weapon or otherwise, is unloaded and enclosed in a carrying case or other suitable container or is unslung in the case of a bow and arrow.

- (5) *Exceptions.*

- a. A person may discharge a weapon within the village only in the following specific cases:
  - 1. As permitted by subsection (b)(2) of this section.
  - 2. A public official while in the lawful discharge of official duty.
  - 3. A member of the Armed Forces of the United States or the state while in the lawful discharge of his official duty.
  - 4. Any person while in the lawful defense of his person or property.

5. Any person while on a clearly defined target range or shooting gallery, provided the missile discharged will stop on or over the target range or shooting gallery.
  6. Any person outside the prohibited area described in subsection (b)(1) of this section, if he is the owner of such land or a guest of the owner of such land who has written permission of the owner on his person at the time; is at least 500 feet from any public or private street, alley, highway, park, picnic ground, playground, railroad, right-of-way, dwelling, industrial business, professional or mercantile establishment, or any school, hospital or institution; and the missile discharged will stop on or over such land.
- b. Crossbows may be permitted by the chief of police or his designee beyond the prohibited area described in subsection (b)(1) of this section. Any person desiring to use a crossbow shall be properly licensed under law and the chief of police shall issue permits in accordance with subsection (b)(3) of this section.

(Code 1993, § 9.02)

#### **Sec. 54-2. Fireworks.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Fireworks* means any firecracker, blank, cartridge, toy pistol or cannon, or cane in which explosives are used, contrivances using nonpaper caps or cartridges, sparklers, display wheels, the type of balloons which require fire underneath to propel them, torpedoes, sky rockets, Roman candles, aerial salutes, American or Chinese bombs, or other devices of similar construction and any similar device containing any explosive or flammable compound, nitrate, chlorate, exalate, sulphide of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorous or any compound of thereof and commonly known as fireworks.

(b) *Prohibited; exemptions.* No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks in the village.

(1) Such ban shall not apply to any of the following, as may be commonly found in permanent retail outlets, such as department stores and supermarkets:

- a. Toy pistols, canes, guns or other devices using paper caps made in accordance with U.S. Interstate Commerce Commission regulations. Paper caps are also permitted.

- b. Gold star producing sparklers on wires which contain no magnesium, chlorate or perchlorate.
  - c. Toy snakes which contain no mercury.
  - d. Smoke and party novelties which contain less than one-fourth gram of explosive mixtures.
- (2) The list of fireworks set forth in subsection (b)(1) of this section may only be used on private property and shall not be permitted on public property. Streets, alleys, parks and parkways are considered public property where fireworks are banned.

(c) *Exceptions.* Nothing contained in this section shall prohibit the use of fireworks in the following circumstances:

- (1) Pyrotechnic displays given by public authorities, fair associations, amusement parks, park boards, civic organizations or groups of individuals when a permit to do so has been issued by the fire chief or his designee. The fire chief may issue such permits as he deems advisable under the circumstances of each case, but the issuance of any such permit shall not be deemed a guarantee by the fire department or the village that the use of any fireworks shall be safe. In addition, the fire chief or his designee may specify in such permit the days when the permit is valid and may further limit the times of the day when the pyrotechnic display may be held. If the fire chief denies a request for a permit, the applicant may appeal to the village board to review the fire chief's decision.
- (2) The use or sale of blank cartridges for circus or theatrical purposes, signal purposes in athletic contests or sports events, or the use by militia, police or military organizations, and the use or sale of colored flares or torpedoes for railway, aircraft or highway signal purposes.
- (3) Sale by a resident wholesaler, dealer or jobber at wholesale, but only when the fireworks are shipped or delivered directly outside the state or to an organization or group permitted to use the fireworks under the provisions of subsection (c)(1) of this section or statute.

(Code 1993, § 9.03)

### **Sec. 54-3. Trespassing on land.**

No person shall intentionally enter upon any land of another, for any purpose whatsoever, without the express or implied consent of the owner or occupant thereof. Consent shall be implied only when the person entering the lands of another does so for business or social reasons and confines his entrance to established driveways or sidewalks.

(Code 1993, § 9.04)

#### **Sec. 54-4. Certain trespasses.**

No person shall remain in or on any private property, land, dwelling or business establishment after consent to remain has been expressly withdrawn by the owner of such private property, land, dwelling or business establishment or by his agent or representative.  
(Code 1993, § 9.05)

#### **Sec. 54-5. Unreasonable noise.**

(a) No person, firm, or corporation shall engage in any activity on public or private property, regardless of its zoning classification, that tends to annoy, disturb or otherwise irritate any neighboring tenant, land owner, or person legally entitled to possession thereof, except for the reasonable noise which occurs in the normal course of reasonable human activities.

- (1) The operation of heavy equipment, construction equipment, lawn mowers and other residential garden tools shall take place only between the hours of 6:00 a.m. and 10:00 p.m. This provision shall not apply to the operation of agricultural equipment on land zoned for agricultural purposes.
- (2) No activity in any zoning district other than M-1 Industrial, which has its own standards, shall produce a sound level outside the property boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

Octave Band Frequency (Cycles Per Second)	Sound Level Decibels
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
Above 4,800	32

- (3) Variance permits may be obtained upon application to the village board for special circumstances such as, but not limited to:
  - a. Work which is necessary to promote public health and/or welfare including road construction and reasonable steps are taken to keep such noise at the lowest possible practical level.
  - b. Special community events, such as circuses, 4th of July Celebrations and other similar community events.
  - c. Existing business operations and equipment which produce excessive noise if it is found that it is not technically or economically feasible to alter such operation to reduce noise to the standard prescribed by this section. Such variance permit may be

of a duration set by the village board after considering all existing circumstances.

(b) No person shall operate any motor vehicle or any other recreational vehicle such as a dirt bike, trail bike, ATV or snowmobile without a functioning muffler or in such a manner as to create unreasonable or excessive noise.

(c) The village board acting through the village administrator shall administer the provisions of this section. Citations as to violations of this section may be issued on complaint of the village board by the village administrator or police department. Violations of this section shall be penalized by a fine not less than \$100.00 nor more than \$1,000.00 for any occurrence. Each day of unabated or continuing violations shall be deemed a separate offense and fined accordingly.

(Code 1993, § 9.06; Ord. No. 8-02, 8-12-2002; Ord. No. 10-2004, § 9.06, 11-8-2004)

**Sec. 54-6. 911 emergency telephone system.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*911 emergency telephone system* has the meaning specified in Wis. Stats. § 146.70(1)(i).

(b) *Regulated use.*

(1) No person shall use the 911 emergency telephone system for regular business or nonemergency telephone calls. If the identity of such caller is not, or cannot, be determined, the person or entity to whom the 911 service is billed shall be deemed to be in violation of this section.

(2) No person shall intentionally dial the telephone number 911 to report an emergency knowing that the situation which he reports does not exist.

(c) *Violations; penalties.* Any person convicted of a violation of this section shall forfeit not less than \$25.00, nor more than \$300.00, plus costs and penalty assessments, for the first offense, and not less than \$50.00, nor more than \$750.00, plus costs and penalty assessments, for the second and subsequent offenses, and in default of payment thereof, may be confined in the county jail for not more than 30 days.

(d) *Forfeiture in lieu of court appearance.* Any person charged with the offenses listed under this section may, in lieu of a court appearance, pay the following amounts at the police department:

(1) *Nonemergency use of 911:*

a. First offense . . . . \$ 30.00

b. Second and subsequent offenses . . . . . 60.00

(2) *Intentional violation of 911:*

a. First offense . . . . . 150.00

b. Second and subsequent offenses . . . . . 300.00

(Code 1993, § 9.07)

**Sec. 54-7. Parties to ordinance violations.**

(a) Any person who is concerned in the commission of an ordinance violation is a principal and may be charged with, and found guilty of, the commission of the ordinance violation although he did not directly commit the violation, and although the person who directly committed the violation has not been found guilty or has been found guilty of some other ordinance violation based on the same act.

(b) A person is concerned in the commission of an ordinance violation if he:

(1) Directly commits the ordinance violation;

(2) Intentionally aids and abets the commission of the ordinance violation; or

(3) Is a party to a conspiracy with another to commit, or advises, hires, counsels or otherwise procures another to commit, the violation. Such a party is also concerned in the commission of any other ordinance violation which is committed in the pursuance of the intended ordinance violation. This subsection does not apply to a person who voluntarily changes his mind and no longer desires that the ordinance violation be committed and notifies the other parties concerned of his withdrawal within a reasonable time before the commission of the ordinance violation so as to allow the others also to withdraw.

(c) Any person who violates the provisions of subsection (a) of this section shall forfeit such sum not exceeding the maximum forfeiture permitted for the violation of the ordinance in question, nor less than the minimum forfeiture so permitted, and in default of payment, by imprisonment in the county jail for not more than the term permitted for such violation of an ordinance.

(Code 1993, § 9.10)

**Sec. 54-8. Alcohol beverages.**

(a) *Selling, serving or giving to another in public.* No person shall sell, serve or give to another person, or offer to sell, serve or give to another person, any fermented malt beverage

or intoxicating liquor while upon any public street or sidewalk, or within a parked motor vehicle located on any street or upon any parking lot open to the public, whether privately owned or not, within the village.

(b) *Consumption or possession in public.* No person shall consume or possess an open container containing any fermented malt beverage or intoxicating liquor while upon any public street or sidewalk, or within a parked vehicle located on any street or upon any parking lot open to the public, whether privately owned or not, within the village.  
(Code 1993, § 9.11)

**Cross References:** Alcohol and alcohol beverages, ch. 6.

#### **Sec. 54-9. Loitering.**

(a) No person shall loiter in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that such person takes flight upon appearance of a police officer, refuses to identify himself or manifestly endeavors to conceal himself or any object.

(b) Unless flight by the person or other circumstances makes it practicable, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the such requirement or, if it appears at trial that the explanation given by the person was true and, if believed by the police officer at the time, would have dispelled the alarm.

(c) No person shall stand, assemble or loiter upon any sidewalk, street, public ground or public way in the village so as to obstruct, hinder or impede free passage upon or along such sidewalk, street, public ground or public way, or obstruct, hinder or impede free ingress or egress to and from any place of business, institution, public building or property. No person so assembled shall refuse or neglect to move or depart, or give free passage after being requested to do so by the owner, lessee, tenant, manager or occupant of such obstructed premises or upon order of any police officer in the village.

(d) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling, house, apartment building or any other place of residence with the intent to watch, gaze or look upon the occupants therein in a clandestine manner.

(e) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd, lascivious or unlawful act.

(f) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person in possession or control thereof.

(g) No person shall loiter in or about a restaurant, tavern or other public building. As used in this subsection, the term "loiter" means to, without just cause, remain in a restaurant,

tavern or public building, or remain upon the property immediately adjacent thereto, after being asked to leave by the owner or person entitled to possession or in control thereof or by any police officer.

(Code 1993, § 9.12)

#### **Sec. 54-10. Littering.**

No person shall throw, place or deposit, or allow to be thrown, placed or deposited, any type of handbill, circular, debris, foodstuff or waste material upon any street, alley, vehicle, waterway, beach, park, sidewalk or other public or private place within the village, or allow the accumulation of debris or waste material upon any premises other than in designated trash receptacles.

(Code 1993, § 9.13)

**Cross References:** Solid waste, ch. 66.

#### **Sec. 54-11. Curfew.**

(a) *Imposed.* No minor person under the age of 18 years shall loiter, idle, wander, play or otherwise be upon the streets, alleys, highways, roads, sidewalks, parks, playgrounds, public grounds or vacant lots, either on foot or in or on a vehicle of any nature, in the village between the hours of 11:00 p.m. and 5:00 a.m. on Sunday--Thursday, and between the hours of 12:00 midnight and 5:00 a.m. on Friday and Saturday, unless such minor is accompanied by either of his parents, his guardian or other person having the legal custody of such minor, is engaged in interstate travel or on the sidewalk in front of the residence of the minor as allowed by law.

(b) *Exceptions.*

- (1) The curfew imposed in subsection (a) of this section does not apply to minors who are returning home from functions authorized by schools, churches or other civic organizations, provided such minors take the shortest and most direct route and as fast as reasonably possible under the circumstances.
- (2) This section does not apply to minors whose employment makes it necessary to be upon such public streets, alleys, highways, roads, sidewalks, parks, playgrounds or other public places in the time restricted, but in such event, such minors must carry a pass issued by the superintendent of police and they must use the shortest and most direct route going to the place of employment from the minor's home and returning home from such place of employment.

(c) *Parental responsibility.* No parent, guardian or other person having legal custody of any minor person under the age of 18 years shall knowingly permit such minor to loiter, idle, wander, play or otherwise be, either on foot or on or in a vehicle of any nature, upon the streets, alleys, highways, roads, sidewalks, parks, playgrounds, public grounds or vacant lots between the hours and days specified in subsection (a) of this section, unless such minor is:

- (1) Accompanied by a parent, guardian or other adult person having the legal custody of such minor;
- (2) Returning home from functions authorized by schools, churches or otherwise recognized civic organizations; or
- (3) Going to or returning home from work as specified in this section.

(d) *Violations; penalties.* Any minor under the age of 18 years who shall violate any of the provisions of this section shall be dealt with in accordance with Wis. Stats. ch. 48.  
(Code 1993, § 9.14)

#### **Sec. 54-12. Rummage and garage sales.**

The owner of any property within the village which is not zoned commercial, pursuant to chapter 90 of this Code, may conduct no more than three rummage or garage sales, during any calendar year, on premises owned by the seller, and any such sale shall be limited to a period of not more than 72 consecutive hours within any one week. A week shall be deemed to commence on any Monday.  
(Code 1993, § 4.15; Ord. No. 13-2004, § 9.15, 12-13-2004)

#### **Sec. 54-13. Obscenity defined.**

*Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Obscenity*, as defined in Wis. Stats. § 944.21, is adopted by reference in this section as if fully set forth in this section, and shall apply to this section.  
(Code 1993, § 9.17)

#### **Sec. 54-14. Racing.**

No person shall set up for operation, maintain, keep, permit or engage in any race or contest of speed in the village which race or contest employs therein any vehicle or animal, other than human beings.  
(Code 1993, § 9.18)

#### **Sec. 54-15. Fortunetellers.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Clairvoyant* means any person who shall assume preternatural knowledge in a trance or similar unconsciousness and thereby pretend to foretell the future of others.

*Fakers, other*, means all other readers or interpreters, by whatever name called, who pretend or purport to reveal the past or foretell the future or destiny of others or any person giving, or offering to give, personal advice because of any pretended skill, power or ability based upon any of the practices set forth in this section.

*Fortuneteller* means any person who pretends to reveal the past or future of others.

*Palmist* means any person who attempts to foretell the future of others by purporting to read the marks or other appearances of the hand or arm.

*Phrenologist* means any person who attempts to give information to others to the effect that the faculties of the mind or of character are manifested through special organs or formations of the body, or are in separate portions of the head, brain or other parts of the body, whether or not such person attempts to foretell the future of others.

*Reader, character*. (See the definition of the term *Reader, spiritual*.)

*Reader, mystic*, means any person who professes direct or indirect divine or similar illumination or relies chiefly upon meditation in acquiring pretended facts as to the past or future of others.

*Reader, spiritual*, means any person who pretends to read the character of others or foretell their future by pretending to read or understand the soul or spirit of others.

(b) *Purpose*. This section and the provisions contained in this section are made necessary by the fraudulent schemes and practices employed by the persons particularly named in this section upon the people of the village, and regulation of such businesses by license or permit would not prevent such fraud; therefore, such businesses are prohibited in the village.

(c) *Prohibited*. No person shall engage in the practice or business, or pretended business, of fortuneteller, palmist, mystic reader, spiritual and character reader, clairvoyant, phrenologist or other faker, or in any other pretended science by which such person accepts or obtains any fee or other consideration from the patron.

(d) *Advertising*. No person shall advertise any of the businesses or pretended businesses set forth in subsection (a) of this section.  
(Code 1993, § 9.19)

#### **Sec. 54-16. Auto sales and repairs.**

(a) The owner of any residentially zoned property in the village, pursuant to chapter 90 of this Code, may permit no more than a total of three motor vehicles to be offered or exposed for sale on such property during any calendar year.

(b) No person shall offer or expose for sale a motor vehicle on residentially zoned property without the written permission of the owner of such property.

(c) No person shall, during any calendar year, offer or expose for sale a motor vehicle on residentially zoned property on which three motor vehicles have been offered or exposed for sale during that calendar year.

(d) The owner of any residentially zoned property in the village, pursuant to chapter 90 of this Code, may permit no more than four motor vehicles to be repaired on such property during any calendar year.

(e) No person shall repair a motor vehicle on residentially zoned property without the written permission of the owner of such property.

(f) No person shall, during any calendar year, repair a motor vehicle on residentially zoned property on which four motor vehicles have been repaired during that calendar year.

(g) For the purposes of this section, the term "motor vehicle" shall have the definition given by Wis. Stats. § 340.01(35).  
(Code 1993, § 9.22)

#### **Sec. 54-17. Habitual truant.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Habitual truant* means a pupil who is absent from school, without an acceptable excuse under Wis. Stats. § 118.16(1)(a), for either part or all of five or more days out of ten consecutive days on which school is held during the school semester, or part or all of ten or more days on which school is held during a school semester.

(b) If a person is found guilty of habitual truancy under this section, the municipal court may impose any one or more of the dispositions provided for in Wis. Stats. § 118.163(2).  
(Code 1993, § 9.23)

#### **Sec. 54-18. Violations; penalties.**

Except as otherwise provided, any person found to be in violation of any provision of this chapter shall be subject to a forfeiture as provided in section 1-15.  
(Code 1993, § 9.25)

#### **Sec. 54-19. Offenses against state laws subject to forfeiture.**

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the village, provided

the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under section 1-15 of this Code of Ordinances. The offenses include, but are not limited to, the following:

125.07(4)(a)	Underage Drinking Violations-Procedures or Attempts to Procure
125.07(4)(b)	Underage Drinking Violations-Possesses or Consumes
125.085(3)(b)	Identification Card Violations
125.09(2)	School Related Possession of Alcohol Beverages
134.71(1)	Violations by Secondhand Dealers
167.32	Body Passing, Object Passing or Bringing Alcohol into a Sports Facility
175.25	Illegal Storage of Junked Vehicles
285.30(6)	Pollution by Motor Vehicle/Tampering with Pollution Control System
939.05	Parties to Crime
939.22	Words and Phrases Defined
939.32	Attempt
940.19(1)	Battery
941.01	Negligent Operation of Vehicle (Off Roadway)
941.10	Negligent Handling of Burning Material
941.12(2), (3)	Interfering with Fire Fighting
941.13	False Alarms
941.20(1)	Reckless Use of Weapons
941.23	Carrying Concealed Weapon
941.24	Possession of Switchblade Knife
942.10	Privacy Protected
943.01(1)	Criminal Damage to Property (Less Than \$1,000.00)
943.07(1)(3)	Criminal Damage to Railroad
943.07(4)	Intentionally Depositing Debris on Railroad
943.11	Entry Into Locked Vehicle
943.125	Entry Into Locked Coin Box
943.13	Trespass to Land
943.14	Criminal Trespass to Dwelling
943.20	Theft (\$2,500.00 or Less)
943.21	Fraud on Hotel or Restaurant Keeper (\$2,500.00 or Less)

943.22	Use of Cheating Tokens
943.23(2)	Operate Auto Without Owner's Consent
943.24	Issue of Worthless Checks (Less Than \$2,500.00)
943.34(1)	Receiving Stolen Property, Value Less Than \$2,500.00
943.37	Alteration of Property Identification Marks
943.41(2), (3)(a)--(d), or (4)(b)	Credit Card Crimes Value Less Than \$2,500.00
943.50	Retail Theft (Shoplifting)
944.15	Fornication
944.17	Sexual Gratification
944.20	Lewd and Lascivious Behavior
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33(1)	Pandering
944.36	Solicitations Prohibited
945.01	Definitions Relating to Gambling
945.02	Gambling
945.04	Permitting Promises to be Used for Commercial Gambling
946.06	Improper Use of Flag
946.32	False Swearing
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42(1)	Escape
946.69	Falsely Assuming to Act as a Public Officer
946.70	Impersonating Peace Officer
946.72(2)	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harass or Intimidate Another Person Intentionally
947.06	Unlawful Assemblies
948.51	Hazing
951.01--951.15	Crimes Against Animals
961.41(2d)	Unlawful Manufacture/Delivery of controlled Substance
961.41(3g)	Possession of Marijuana
961.41(4)	Imitation Controlled Substance
961.573(2)	Possession of Drug Paraphernalia
961.574(2)	Manufacture/Delivery of Drug Paraphernalia
961.575(2)	Delivery of Drug Paraphernalia to a Minor

(Code 1993, § 9.29.288--9.961.575(2))

**Sec. 54-20      Sex offender residency restrictions.**

(a)      *Findings and Intent.*

- (1)      *Findings.* Sex offenders, including sex offenders who use physical violence or the threat thereof and sex offenders who prey on children are sex predators who present a serious threat to the public safety. It is further believed that that such persons present an alarmingly high risk of re-offending once released. Sex offenders are extremely likely to use physical violence when they offend; and most sex offenders commit multiple offenses, have more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society great, and justifies efforts to protect the public from it. Because reducing both opportunity and temptation will minimize the risk of re-offense for those Sex Offenders who will re-commit sex offenses against children, there is a compelling need to separate Sex Offenders from places where children congregate or play in public places.
- (2)      *Intent.* This Ordinance is a regulatory measure aimed at protecting the health and safety of children in the Village from the risk that convicted sex offenders may reoffend in locations close to their residence. The Village establishes these regulations in order to provide protection to children in the Village by minimizing immediate access and proximity to children and thereby reducing opportunity and temptation for recidivism. It is the intent of the Village Board to protect the safety and welfare of its citizens by creating zones around places where children regularly gather, in which certain Sex Offenders are prohibited from establishing Residency. It is expressly not the intent of the Village Board to impose additional punishment on Sex Offenders.

(b)      *Definitions.* The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except when the context clearly indicates a different meaning.

- (1)      "Child" or "children" means a person who has not attained the age of 18 years, for purposes of this Ordinance.
- (2)      "Sex Offender" means any person who is or was required to register under Section 301.45, Wisconsin Statutes, for any sexual offense against a child, or any person who is or was required to register under Section 301.45, Wisconsin Statutes, and who has been designated a Special Bulletin (SBN) sex offender pursuant to Sections 301.46(2) and (2m), Wisconsin Statutes.
- (3)      "Minor" means a person under the age of eighteen (18) years.

- (4) “Residence” means a place where a person resides or dwells, or is used by a person as the primary location for basic life functions such as sleeping or eating; whether short- or long-term but for an aggregate of 14 or more days in any one-year period.
  - (5) “Child Safety Zone” means an area within 1,250 feet of any private or public school, recreational trail, playground, park having a children’s playground, park having athletic facilities used by persons younger than 18 years of age, child care center licensed pursuant to Wis. Stat. § 48.65, or group home as defined in Wis. Stat. § 48.02(7), within the Village of Mount Pleasant.
- (c) Residence Restriction, Exceptions. No Sex Offender shall establish or maintain a Residence within a Child Safety Zone, except under the following circumstance:
- (1) It is specifically ordered that the Sex Offender reside within a Child Safety Zone by a circuit court having competent jurisdiction.
  - (2) The Sex Offender established the Residence within 1,250 feet of a private or public school, recreational trail, playground, park having a children’s playground, park having athletic facilities used by persons younger than 18 years of age, licensed day care as defined in Wis. Stats. § 48.02(7); reported and registered the Residence pursuant to Wis. Stats. § 301.45 before the effective date of this ordinance, that being January 23, 2014.
  - (3) The person is excepted from sex-offender registration pursuant to Wis. Stats. §301.45(1m).
  - (4) The private or public school, recreational trail, playground, park having a children’s playground, park having athletic facilities used by persons younger than 18 years of age, child care center, or group home around which a Child Safety Zone exists first existed after the Sex Offender established Residence and reported and registered the Residence pursuant to Wis. Stats. § 301.45.
  - (5) The Sex Offender’s Residence is within a jail, juvenile facility or other correctional facility at which the Sex Offender is serving a court-ordered sentence.
  - (6) The Sex Offender is a Minor or ward under guardianship and is residing with his or her parent or guardian. In such cases involving a Minor or ward placed in accordance with this exception, when the Minor or ward turns 18 years of age, the Minor or ward shall be allowed to continue to reside at the already established residence.

(d) Measurement of Distances. The boundaries of the Child Safety Zone shall be determined by measuring from the outer property boundary of private or public schools, recreational trails, playgrounds, parks having a children's playground, parks having athletic facilities used by persons younger than 18 years of age, child care centers, or group homes as defined in (b)(5), along the shortest line to the outer property boundary of a Sex Offender's Residence. If any portion of a property is within a Child Safety Zone, then the entire property shall be deemed within the Child Safety Zone.

(e) Maps. A map depicting the above-enumerated uses and the resulting residency restriction distances shall be adopted by Resolution of the Village Board, and which map may be amended from time to time, is on file in the Office of the Village Clerk for public inspection.

(f) Notification. A Sex Offender must notify the police department a minimum of twenty-eight (28) days prior to establishing a Residence within the Village of Mount Pleasant .

(g) Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators. It shall be unlawful for any property owner to lease or rent any place, structure, mobile home, trailer or any part thereof, with the knowledge that it will be used as a Residence by any person prohibited from establishing a Residence therein pursuant to this Ordinance, if such place, structure, or mobile home, trailer or any part thereof, is located within a Child Safety Zone as defined in Section 54-20(b)(5).

(h) Public Nuisance. Any violation of this Chapter shall be deemed a public nuisance affecting peace and safety, and the Village may proceed under Chapter 62 of the Code of Ordinances and/or Chapter 823 of the Wisconsin Statutes to abate the nuisance.

(i) Injunction for Violation of Residence Restrictions. If an offender establishes a Residence in violation of subsection (c) above, the Chief of Police may refer the matter to the Village Attorney. The referral shall include a written determination by the Chief of Police that, upon all of the facts and circumstances and the purpose and intent of this Ordinance, such violation interferes substantially with the comfortable enjoyment of life, health, and safety of another or others. Upon such referral, the Village Attorney shall bring an action in the name of the Village in Circuit Court to permanently enjoin such residence as a public nuisance.

(j) Severability. Should any section, paragraph, sentence, clause or phrase of this Section be declared unconstitutional or invalid, or be repealed, it shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or repealed.

(k) Appeal for an exemption.

(1) A Sex Offender may seek an exemption from this Section 54-20 by appealing to the sex offender residency board (the "Appeals Board").

- (2) The Appeals Board shall consist of three citizens and one alternate who are residents of the Village. For the initial appointments to the Appeals Board, the Village President shall appoint three members to staggered terms of one, two or three years, subject to confirmation by the Village Board and one alternate to a term of three years. After the initial appointment of members to a term of one, two and three years respectively, the Village President shall annually, between the last Monday of April and the first Monday of May, appoint one member for a term of three years and one alternate for a term of three years every third year, subject to confirmation by the Village Board. At the first meeting held of the Appeals Board after the first Monday of May of each year, the members of the Appeals Board shall vote by majority to select a chair for its meetings and appeal that come before it.
- (3) The Appeals Board shall approve of an official appeal form, establish filing procedures, a hearing schedule and deadlines for filing an appeal. A Sex Offender seeking an exemption shall complete this official form and submit it to the Village Clerk, who shall forward it to the Appeals Board. Notice in the form of an agenda shall be posted and/or published as required by law and provided to the Appeals Board.
- (4) The Village elects not to be bound by Chapter 68 of Wisconsin Statutes with respect to administrative procedure in the appeal process. The Appeals Board shall hold a hearing on each appeal to conduct an individual risk assessment in each case, during which the Appeals Board may review any pertinent information and may accept oral and written statements from any person. The Sex Offender that filed the appeal shall appear at any hearing held, unless otherwise approved by the Appeals Board. The Appeals Board shall consider the public interest as well as the applicant's presentation and concerns, giving the applicant a reasonable opportunity to be heard. The Appeals Board shall also consider any oral, emailed, and written statements from any person at the hearing or received in advance of the hearing. The Appeals Board shall consider the specific facts and circumstances of each applicant and determine whether the Sex Offender presents a threat to public safety if he or she resides at that proposed location. The Appeals Board shall consider factors which may include, but are not limited to, the following:
- a. Circumstances surrounding the offense.
  - b. Relationship of offender and victim.
  - c. Presence or use of force.
  - d. Presence of enticement.
  - e. Need to protect victim or similarly situated individuals.

- f. Current dangerousness of the offender.
- g. Proximity in time from original offense.
- h. Any criminal offenses, ordinance or rule violations committed since original offense including failures to register or comply with restrictions set by a bond, parole or probation.
- i. Time out of incarceration.
- j. Current supervision status by the Department of Corrections.
- k. Counseling and treatment history.
- l. Credibility of offender.
- m. Remorse.
- n. Proximity of proposed residence to a child safety zone.
- o. Support network of offender near proposed residence
- p. Alternative options for housing.

- (5) The Appeals Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or be conditional to a certain address or period of time. In the case of an approval or denial, the Appeals Board shall provide a written copy of the decision containing the reasons therein for its decision to the Village Prosecutor and to the Sex Offender. The decision of the Appeals Board may be appealed to the Racine County Circuit Court by any aggrieved party within 30 days of filing of the final decision in the Village Clerk's office, a copy of which shall be mailed to the Sex Offender who appealed. The review shall be a review by certiorari and the Circuit Court may affirm or reverse the final decision, or remand to the decision maker for further proceedings consistent with the court's decision.

(l) *Penalties.* Any Person who violates any provision of this Section shall, upon conviction thereof, be subject to a forfeiture not to exceed Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense. Neither the issuance of a citation nor the imposition of forfeiture hereunder shall preclude the Village from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this Chapter.

#### **Sec. 54-21. Prohibited conduct of designated sex offender.**

- (a) *Findings and Intent.*

- (1) *Findings.* Repeat sex offenders, sex offenders who use physical violence or the threat thereof, and sex offenders who prey on children are sex predators who present a serious threat to the public safety. Sex offenders

are extremely likely to use physical violence when they offend, and most sex offenders commit multiple offenses, have more victims that are never reported and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society great, and justifies efforts to protect the public from it.

Because reducing both opportunity and temptation will minimize the risk of re-offense for those Sex Offenders who will re-commit sex offenses against children, there is a compelling need to separate Sex Offenders from places where children congregate or play in public places.

- (2) *Intent.* It is the intent of the Village Board to protect the safety and welfare of its citizens by creating zones around places where children regularly gather, in which certain Sex Offenders are prohibited from establishing Residency. It is not the intent of the Village Board to impose additional punishment on Sex Offenders.

(b) *Definitions.* The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except when the context clearly indicates a different meaning:

" Sex Offender" shall have the same meaning as specified in Section 54-20(b)(2) of this Code of Ordinances.

(c) *Prohibited Activity.* It is unlawful for any Sex Offender to participate in a holiday event involving children under eighteen (18) years of age. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this section. Participation is defined as actively taking part in the event and shall include, but is not limited to, distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter.

(d) *Severability.* Should any section, paragraph, sentence, clause or phrase of this section be declared unconstitutional or invalid, or be repealed, it shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or repealed.

(e) *Penalties.* Any person who violates any provision of this section shall, upon conviction thereof, be subject to a forfeiture not to exceed Five Hundred (\$500.00) Dollars, together with the costs of prosecution, and in default of payment thereof, shall be committed to the County Jail for a period not to exceed ninety (90) days. Each violation and each day such violation continues shall be considered a separate offense.

**Chapters 55--57**

**RESERVED**

## Chapter 58

### PARKS AND RECREATION\*

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\* **Cross References:** Any ordinance naming public grounds and parks saved from repeal, § 1-8(11); streets, sidewalks and other public places, ch. 70.

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<b><i>Section Number</i></b>	<b><i>Title</i></b>	<b><i>Ordinance Number</i></b>	<b><i>Date of Ordinance</i></b>
Sec. 58-1.	Prohibited activities; hours; variances.		
Sec. 58-2.	Violations; penalties.		

**Sec. 58-1. Prohibited activities; hours; variances.**

(a) *Prohibited activities.* No person within the village shall do any of the following within or upon any park or public recreational area operated by the village or park commission:

- (1) *Damage property.* Intentionally mark, deface, disfigure, damage, displace or remove any structure, equipment, facility or other park property, either real or personal, including trees, shrubbery and landscaping.
- (2) *Litter.* Scatter, litter, throw, dispose of or leave any garbage, rubbish, bottle, can, trash, debris or other waste material in any waters in, or contiguous to, any park or public recreational area or any place on the grounds thereof.
- (3) *Animals.* Bring or harbor any dogs, horses or other animals at any time in or upon any park or public recreational area, except when required for activities or amusements authorized by the park commission or village board, whichever body has jurisdiction.
- (4) *Firearms.* Have in his possession or under his control, or discharge any firearm, airgun, sling shot or any other dangerous or deadly weapon or explosive of any kind while in or upon any park or public recreational area, except law enforcement officers.
- (5) *Fireworks.* Use, discharge, explode or bring any fireworks in or upon any park or public recreational area. For purposes of this subsection, the term "fireworks" shall include all material and devices enumerated under Wis. Stats. § 167.10(1), but shall not include paper caps manufactured in accordance with United States Interstate Commerce Commission regulations for packing and shipping. This subsection shall not prohibit pyrotechnic displays authorized by a permit issued by the president in accordance with the provisions of Wis. Stats. § 167.10(3).
- (6) *Drive, ride or park in grass areas.* Drive, operate, park, ride or leave standing any vehicle, motor vehicle, motor driven cycle, bicycle or horse in or upon any park or public recreational area, except on the roads, ways, trails and areas established therefor. Vehicles specifically designed to help individuals whose mobility is handicapped, which access park facilities or public recreational areas, are exempt from this subsection when such vehicles are used for such purposes. Snowmobiles, minibikes, go-carts and all other unlicensed vehicles are prohibited at all times in village parks and public recreational areas.
- (7) *Intoxicating liquor.* Bring into or have in his possession, or consume, any intoxicating liquor, except beer, upon or in any park or public recreational area.

- (8) *Disorderly conduct.* Use any loud, violent, obscene or profane language, conduct himself in a disorderly manner or commit any nuisance while in or upon any park or public recreational area.
- (9) *Bottles.* Bring any bottle of any type into any park.
- (10) *Fires.* Build, or cause to be built, a fire of any kind in or upon any park or public recreational area, except within areas designated for fires, in designated fireplaces provided for such purpose, or except for portable grills in restricted areas and if ashes are properly disposed of.
- (11) *Locked and posted areas.* Enter any building, or part thereof, or any area in or upon any park or public recreational area which is locked or in disregard of posted signs or notices.
- (12) *Sale of merchandise.* Sell or vend any article or merchandise in any park or public recreational area without the written consent of the park commission or village board, whichever body has jurisdiction.
- (13) *Signs and notices.* Post any notice or sign in or upon any park or public recreational area within the village without the written consent of the park commission or village board, whichever body has jurisdiction.
- (14) *Sound devices.* Operate any sound track, loudspeaker, amplifier, motor or other mechanical or electronic device that produces loud and undue noise in or upon any park or public recreational area without the written consent of the park commission or village board, whichever body has jurisdiction.
- (15) *Games.* Play softball, baseball, football or any other ball game or horseshoes, except at locations specifically designated for such purpose by the park commission or village board, whichever body has jurisdiction.

(b) *Hours.* The park hours shall be set by the park commission and appropriate signs giving notice thereof shall be posted at all village parks.

(c) *Variance.* A variance for a specified period of time to any and all of the restrictions set forth in this section may be granted by the park commission or village board, whichever party has jurisdiction, provided that at no time may such a grant of variance have the effect of permitting any group the exclusive use of any park or recreational area maintained by the village.

(Code 1993, § 19.01)

## **Sec. 58-2. Violations; penalties.**

Except as otherwise provided, any person who violates any provision of this chapter shall, upon conviction, be subject to a forfeiture as provided in section 1-15.

**Chapters 59--61**

**RESERVED**

## Chapter 62

### PUBLIC NUISANCES\*

\* **Cross References:** Abatement of health nuisances, § 38-62.  
**State Law References:** Nuisances generally, Wis. Stats. § 823.01 et seq.

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
Sec. 62-1.	Definitions.		
Sec. 62-2.	Cost of abatement.		
Sec. 62-3.	Unlawful acts.		
Sec. 62-4.	Public health nuisances.		
Sec. 62-5.	Keeping dogs.		
Sec. 62-6.	Public nuisances offending public morals and decency.		
Sec. 62-7.	Public nuisances affecting peace and safety.		
Sec. 62-8.	Grass fires; confinement.		
Sec. 62-9.	Accumulation of used motor vehicles.		
Sec. 62-10.	Abatement.		
Sec. 62-11.	Violations; penalties.		
Sec. 62-12	Graffiti.	2014-16	10/27/14

### **Sec. 62-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Public nuisance* means a thing, act, occupation, condition or use of property which continues for a length of time so as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.
- (3) Greatly offend the public morals or decency.
- (4) Unlawfully and substantially interfere with, obstruct or tend to obstruct, or render dangerous for passage, any street, alley, highway, navigable body of water or other public way or the use of public property.

(Code 1993, § 10.02)

**Cross References:** Definitions generally, § 1-2.

### **Sec. 62-2. Cost of abatement.**

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance has been given to the owner, such cost shall be assessed as a special charge against the real estate.

(Code 1993, § 10.12)

### **Sec. 62-3. Unlawful acts.**

No person shall erect, contrive, cause, continue, maintain or permit any public nuisance to exist within the village.

(Code 1993, § 10.01)

### **Sec. 62-4. Public health nuisances.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of section 62-1:

- (1) *Unburied animal carcasses.* Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death of such animals, birds or fowl.

- (2) *Insect and vermin breeding places.* Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed.
- (3) *Stagnant water.* All stagnant water in which mosquitoes, flies or other insects can multiply.
- (4) *Privy vaults and garbage cans.* Privy vaults and garbage cans which are not flytight.
- (5) *Noxious weeds.* Canada Thistle, Leafy Spurge, Field Bindweed (creeping Jenny), and unsightly and troublesome plants which are detrimental to cultivated crops, public health, public welfare and the general appearance of the surrounding area or such uncultivated rank plants which create unpleasant or noxious odors or grow to such a height so as to permit the concealment of filthy deposits.
- (6) *Water pollution.* The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (7) *Noxious odors.* Any use of a property, substance or thing within the village which emits or causes any foul, offensive, noxious or disagreeable odor, gas, effluvia or stench which is extremely repulsive to the physical senses of ordinary persons or which annoys, discomforts, injures or inconveniences the health of any appreciable number of persons within the village.
- (8) *Street pollution.* Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the village.
- (9) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the village or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities, or threaten or cause substantial damage to property in the village.

(10) *Animals running at large.* Any animals running at large in the village.  
(Code 1993, § 10.03)

## **Sec. 62-5. Keeping dogs.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Dog* means any canine, regardless of age or sex.

*Residential unit* means a parcel of land zoned as residential, occupied or to be occupied by a dwelling, whether platted or unplatted, and under common ownership. For the purpose of this section, any vacant parcel adjoining a dwelling and under the same ownership shall constitute one lot.

(b) *Public nuisance declared.* The keeping of a large number of dogs within the village for an extended period of time detracts from, and may be detrimental to, the peace and safety of life in certain areas of the village; therefore, the keeping of a large number of dogs is declared to be a public nuisance.

(c) *Limitation.* Except as provided in section 10-3(c), no family shall own, harbor or keep more than three dogs in its possession on any residentially zoned lot, except that a litter of pups, or a portion thereof, may be kept for not more than eight weeks from the birth of such pups. For the purposes of this subsection, the term "family" means one or more persons. (Code 1993, § 10.11; Ord. No. 4-01, § 10.15(2), 9-24-2001)

**Cross References:** Animals, ch. 10.

## **Sec. 62-6. Public nuisances offending public morals and decency.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Disorderly house* means any building, place or room in which gambling or prostitution, or liquor and fermented malt beverage violations occur, or which is used for the purpose of unlawfully selling, serving, storing, keeping or giving away controlled substances as defined in Wis. Stats. ch. 161.

*Gambling devices* means all gambling devices and slot machines.

(b) *Enumerated.* The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of section 62-1:

- (1) *Disorderly house.* No person shall keep, control or operate a disorderly house or be an inmate of, frequent, patronize or be found within any disorderly house.

- (2) *Unlicensed sale of intoxicated liquor and beer.* All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by ordinance.
- (3) *Continuous violation of ordinances or laws.* Any place or premises within the village where ordinances or laws relating to public health, safety, peace, morals or welfare are openly, continuously and repeatedly violated.
- (4) *Illegal drinking.* Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of law.

(Code 1993, § 10.04)

#### **Sec. 62-7. Public nuisances affecting peace and safety.**

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of section 62-1:

- (1) *Dangerous signs, billboards, etc.* All signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, situated or constructed so as to endanger the public safety.
- (2) *Illegal buildings.* All buildings erected, repaired or altered in violation of ordinances relating to materials and the manner of construction of buildings and structures within the village.
- (3) *Unauthorized traffic and railroad devices, signs or signals.* All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be, or may be, mistaken as official traffic control devices, railroad signs or signals, or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign or signal.
- (4) *Obstruction of view at intersections or pedestrian crosswalks.* All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (5) *Low hanging tree limbs.* All limbs of trees which project over and less than ten feet above any public sidewalk, street or other public place.

- (6) *Menacing or annoying trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (7) *Fireworks.* All uses or displays of fireworks, except as provided by law and ordinance.
- (8) *Dilapidated buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
  - a. After obtaining the approval of the village board, the building inspector is authorized to act for the village under the provisions of Wis. Stats. § 66.0413, relating to the razing of buildings, and all acts amendatory thereof and supplementary thereto. The clerk-treasurer is authorized to place the assessment as a lien upon the property and collect the special tax as provided in such statute.
  - b. Before a building can be demolished or removed, the owner or agent shall notify all utilities having service connections within the building, such as water, sewer, gas or electric. A building shall not be demolished or removed until it is ascertained that service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and safely plugged. In addition, the owner or agent shall certify that the building to be razed contains no friable asbestos or the building inspector shall satisfy himself that no such friable asbestos exists before the demolition shall occur.
  - c. Excavations shall be protected with appropriate fences, barriers and/or lights, and, within five days of removal of the structure, shall be filled with clean solid fill (i.e., clay, sand or stone) to match the lot grade and be landscaped compatible with adjacent abutting lands.
- (9) *Low hanging wires and cables.* All wires and cables over streets, alleys or public grounds, which are strung less than 15 feet above the surface thereof.
- (10) *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the village.
- (11) *Obstructions of streets; excavations.* All obstructions of streets, alleys, sidewalks or crosswalks, and all excavations in or under streets, alleys,

sidewalks or crosswalks, except as permitted by this Code, but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.

- (12) *Unlawful assemblies.* Any unauthorized or prohibited use of property abutting on a public street, alley or sidewalk, or of a public street, alley or sidewalk which causes large crowds of people to gather and thereby obstructing traffic and free use of the streets or sidewalks.
- (13) *Blighted buildings and premises.* Premises existing within the village which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the village.
  - a. Blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health and safety, crime prevention, fire protection and other public services; and such conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.
  - b. Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and shall be fostered and encouraged by this section. It is essential to the public interest that this section be liberally construed to accomplish such purposes.

(Code 1993, § 10.05)

#### **Sec. 62-8. Grass fires; confinement.**

(a) *Grass fires.* No person shall kindle any grass fire within the village without first securing a written permit from the village fire chief, who shall issue such permit subject to any conditions for the protection of life and property imposed by the him. No permit shall be valid until the permittee has notified the fire department of the time and place of such burning.

(b) *Confinement.* No person shall kindle, or cause to be kindled, any fire in or upon any street, alley, public way, park, or public or private grounds within the village within 25 feet of any building or within any fire lane unless the fire is confined within a wire refuse burner or

basket, or metal enclosure with a wire cover attached to prevent the escape of sparks and burning material.

(Code 1993, § 10.06)

#### **Sec. 62-9. Accumulation of used motor vehicles.**

No person, except a person licensed under section 46-182 or a licensee of a motor vehicle dealer's license issued under statute, shall accumulate or store or allow to remain outside of any building on real estate located within the village for a period of more than ten days, or dump, deposit or otherwise abandon upon any property or upon any highway, street, road, alley or way within the village, any used motor vehicle, as defined by statute, or any detached part thereof, for which no current registration fee has been paid under statute or which, if paid, does not have properly attached thereto under statute a current license plate, if required, and which is in a condition which would mechanically prevent the immediate operation thereof upon any public highway or its operation thereon would be in violation of the law. Each day that any used motor vehicle, as defined in this section, or any detached part thereof, shall be accumulated or stored or allowed to remain contrary to this section shall constitute a separate and distinct offense.

(Code 1993, § 10.07)

**Cross References:** Traffic and vehicles, ch. 78.

#### **Sec. 62-10. Abatement.**

(a) *Enforcement.* The village administrator or designee shall enforce the provisions of this chapter that come within the jurisdiction of their offices, and shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected, or caused to be inspected, the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) *Summary abatement.* If the inspecting officer determines that a public nuisance exists within the village, and that there is great and immediate danger to the public health, safety, peace, morals or decency, the village board may direct the proper officer to cause the nuisance to be abated and charge the cost of abatement to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(c) *Abatement after notice.* If the inspecting officer determines that a public nuisance exists on private premises, but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the nuisance within ten days. If such nuisance is not removed within ten days, the officer shall cause the nuisance to be removed as provided in subsection (b) of this section.

(d) *Other methods not excluded.* Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the village or its officials in accordance with law.

(e) *Court order.* Except when necessary under subsection (b) of this section, an officer under this section shall not use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property, if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.  
(Code 1993, § 10.10)

#### **Sec. 62-11. Violations; penalties.**

Any person who shall violate any provision of this chapter, or any regulation, rule or order made under this chapter, or permit or cause a public nuisance, shall be subject to section 1-15.  
(Code 1993, § 10.15)

#### **Sec. 62-12. Graffiti.**

(a) *Graffiti defined.* Graffiti means marks, symbols, signs, letters, names, phrases, or sentences which are inscribed or placed on real and physical property and tend to deface said property.

(b) *Public nuisance.* The existence of graffiti on real and physical property within the Village of Mt. Pleasant is expressly declared to be a public nuisance as it affects the public health, safety and welfare and creates blighting influences on neighborhoods, and it shall be the duty of the owner of the property to remove or cover graffiti which is placed thereon.

(c) *Graffiti prohibited.* Graffiti is prohibited on any private or public building or property whether real or physical. Graffiti shall be removed by the property owner after written notice and order is given by the police department or the building department to the owner of record.

(d) *Removal of graffiti.* Graffiti shall be removed within a reasonable time (14 days) after the police department or the building department issues a written notice and order to the property owner.

(e) *Failure to remove; extension.*

- (1) It shall be unlawful for the owner of real property to fail to remove graffiti from the property within 14 days, after being provided a written notice and order for removal by a certain date served upon the owner by personal service or by regular mail sent to the address listed on the real estate tax bill, and by posting the order on the real or physical property.
- (2) Upon written request received by the police department that issued the notice and order, prior to expiration of the time provided for compliance, the Chief of Police or his designee may, for just cause, grant an extension of time for compliance.

- (3) If the owner fails to comply with the order(s) after being provided with a written notice and order for removal and upon the expiration of any extension(s) granted, the Chief of Police or his designee may remove or cover the graffiti and all costs, fees and expenses incurred in the removal shall be levied against the property as a special charge, if such amounts are not paid by the property owner within such time as is allowed in the billing for such removal. Such costs shall be in addition to any other enforcement actions taken under this Code. Each day of violation shall constitute a separate offense.

(f) *Notification of defacement.* Every owner or occupant of a structure or property defaced by graffiti shall notify the police department of the graffiti before removing or covering such graffiti.

(g) *Enforcement of graffiti prohibition.* The Chief of Police or his designee shall have primary responsibility to enforce the provisions of this section.

**Chapters 63--65**

**RESERVED**

## Chapter 66

### SOLID WASTE\*

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\* **Cross References:** Buildings and building regulations, ch. 14; health and sanitation, ch. 38; mobile homes, ch. 50; littering, § 54-10; utilities, ch. 82.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 66-1.	Definitions.		
Sec. 66-2.	Garbage, ashes and refuse.	09-2015	11/23/15
Sec. 66-3.	Garbage, ash and refuse containers.		
Secs. 66-4. – 66-30.	Reserved.		
<b>Article II. Landfill</b>			
Sec. 66-31.	Definitions.		
Sec. 66-32.	Intent.		
Sec. 66-33.	Unauthorized use.		
Sec. 66-34.	Permits; fees.		
Sec. 66-35.	Compost dropoff site.		
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Sec. 66-71.	Definitions.		
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Sec. 66-78.	Enforcement; violations; penalties.		
Sec. 66-79.	Removal of deposited recyclables.		
Sec. 66-80.	Separation of recyclable materials.		
Sec. 66-81.	Care of separated recyclable materials.		
Sec. 66-82.	Management of lead-acid batteries, major appliances, waste oil and yard waste.		
Sec. 66-83.	Preparation and collection of recyclable materials.		
Sec. 66-84.	Responsibilities of owners and designated agents of multiple-family dwellings.		
Sec. 66-85.	Responsibilities of owners and designated agents of nonresidential facilities and properties.		
Sec. 66-86.	Disposal and burning of recyclable materials separated for recycling.		

**ARTICLE I.**  
**IN GENERAL**

**Sec. 66-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Ashes* means solid waste products in fuels.

*Garbage* means waste products, other than sewage and manure, of animal, fruit and vegetable matter that attends the preparation, use, cooking, dealing in or storage of food.

*Refuse* means waste materials, including paper, rags, metal, wood, glass, crockery, tin cans and materials commonly referred to as rubbish, but specifically excluding garbage, ashes, sewage and manure.

(Code 1993, § 11.02)

**Cross References:** Definitions generally, § 1-2.

**Sec. 66-2. Garbage, ashes and refuse.**

(a) *Deposit, storage and accumulation.* No person shall deposit, or cause to be deposited, any garbage, ashes or refuse on any highway, street or public or private alley in the village. No person shall store or accumulate any garbage, ashes or refuse in any part of the village where provision is made by the village board for the periodic collection thereof for a longer period of time than elapses between such periodic collection, unless permission to do so is obtained from the village board; provided, however, that the prohibitions contained in this subsection shall not apply to the storage and accumulation of refuse by licensed junkyards or the storage and accumulation of ashes and refuse by industrial establishments which maintain adequate and sanitary facilities and space for the storage of ashes and refuse.

(b) *Collection.* Except for multi-family units of nine (9) or more, commercial, or industrial establishments, garbage, ashes and refuse shall be collected in such parts of the village, and disposed of in such manner and by such means as the village board shall determine from time to time. All collections shall be subject to the following:

- (1) The owner and/or occupant of any premises shall be responsible for the proper and sanitary storage of all garbage, refuse and ashes.
- (2) Garbage and ash receptacles shall be durable, rust-resistant, nonabsorbent, watertight, and rodent-proof, and in no event shall such receptacles be placed on any highway, street or alley.

- (3) Containers and equipment used to hold garbage, refuse and ashes shall be placed at the roadside for collection by 7:00 a.m. on the scheduled day of collection but no sooner than 15 hours before 7:00 a.m. of such day.
- (4) Containers and equipment used to hold garbage, refuse and ashes for roadside collection shall be removed from the roadside within 12 hours after collection.
- (5) Such other rules as the village board may provide from time to time by resolution of which notice is given by distribution thereof in the parts of the village where such collections are to be made.

(c) *Yard wastes.* Yard wastes, including, but not limited to, grass clippings, brush and leaves, shall not be collected as a part of the village's regular curbside garbage/refuse collection. Disposal of yard wastes shall be the responsibility of each household or property owner and shall be consistent with all applicable local, state and federal regulations.  
(Code 1993, § 11.05)

### **Sec. 66-3. Garbage, ash and refuse containers.**

(a) The owner or occupant of any vacant or improved property in any part of the village where provision is made by the village board for the periodic collection of garbage and ashes shall maintain receptacles sufficient to contain all garbage and ashes between the times of collection thereof, provided that this subsection shall not apply to the accumulation of ashes by industrial establishments which maintain adequate and sanitary facilities and space for the storage of ashes. All such garbage and ash receptacles shall be of metal or plastic, watertight, equipped with handles for carrying the receptacles and shall be provided with a tightfitting cover which shall not be removed, except when necessary to fill, empty and cleanse the receptacles. Refuse may be accumulated in a sanitary manner on any premises for periodic disposal.

(b) The owner or occupant of any vacant or improved property in any part of the village where provision is made by the village board for the periodic collection of refuse, shall place such refuse in containers so that the containers may be readily handled at the time of collection, provided that this subsection shall not apply to the accumulation of refuse by industrial establishments which maintain adequate and sanitary facilities and space for the storage of refuse.  
(Code 1993, § 11.04)

### **Secs. 66-4--66-30. Reserved.**

## ARTICLE II.

### LANDFILL

#### **Sec. 66-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*For hire* means compensation, in any form, being charged by the person to dispose of materials as defined in this section.

*Material* means garbage, refuse and all other discarded material, including waste material resulting from industrial, commercial or agricultural operations, and from domestic use and public service activities, and also including toxic and hazardous substances as defined in Wis. Stats. § 285.01.

*Person* means an individual, group of individuals, partnership, firm, corporation, association or any duly authorized agent thereof.

*Sanitary landfill site* means the area where there is practiced a method of disposing of solid waste on land by utilizing the principles of engineering to confine the solid waste to the smallest practical area, reduce it to the smallest practical volume and cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

*Wastes* includes toxic and hazardous substances as defined in Wis. Stats. § 285.01.  
(Code 1993, § 11.16(3))

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 66-32. Intent.**

At the time of the adoption of the ordinance from which this article is derived, there is one licensed sanitary landfill site presently operating in the village. Such sanitary landfill site operates under both state and county regulations that material to be disposed of may only be collected from, or brought to, the site from the county, and commercial and industrial wastes only may be brought to the site from Kenosha County. It is the intent of this section to indicate to all users of sanitary landfill sites that a violation of such regulations is contrary to village policy.  
(Code 1993, § 11.16(1))

#### **Sec. 66-33. Unauthorized use.**

No person shall, for hire, dispose of any material whatsoever in any licensed sanitary landfill site location in the village if such material is collected from, or brought to, such sanitary landfill site from outside the county. However, commercial and industrial wastes from Kenosha

County only, but not including any municipal refuse from Kenosha County, may be brought to, and disposed of, at any licensed landfill site in the village.  
(Code 1993, § 11.16(2))

**Sec. 66-34. Permits; fees.**

No person shall transport any garbage, rubbish or other refuse into, or within, the village for the purpose of dumping or otherwise disposing of such garbage, rubbish or other refuse until such person has first secured a permit to do so from the village board. The rights granted under such permit shall expire on June 30 each year. The fee for the issuance of such permit shall be as set by the village board.  
(Code 1993, § 11.16(4))

**Sec. 66-35. Compost dropoff site.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Contractor* means any individual or entity in the business of landscape architecture, construction or maintenance.

(b) *Use by contractors.* Contractors may dispose of compostable material at the village compost dropoff site only after complying with the following:

- (1) Any contractor seeking to use the village compost dropoff site must purchase a contractor's permit at the clerk-treasurer's office for disposal of compost materials. The annual cost for such permit shall be as set by the village board. Permits shall remain on file at the village hall public works department.
- (2) Upon issuance of the permit described in subsection (b)(1) of this section, contractors may purchase coupon booklets from the clerk-treasurer at a cost as set by the village board. Each coupon booklet shall contain ten coupons. Coupons shall be in a form prescribed by the village public works department, and shall contain space for contractors to provide verification that the compostable material to be left at the site originated at a village address. Contractors shall gain entry to the village compost dropoff site only upon presentation to the attendant of one coupon containing the required verification.

(Code 1993, § 11.22)

**Secs. 66-36--66-70. Reserved.**

## ARTICLE III.

### RECYCLING

#### Sec. 66-71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bimetal container* means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

*Container board* means corrugated paperboard used in the manufacture of shipping containers and related products.

*Foam polystyrene packaging* means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

- (1) Is designed for serving food or beverages.
- (2) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
- (3) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

*HDPE* means high density polyethylene, labeled by the SPI code no. 2.

*LDPE* means low density polyethylene, labeled by the SPI code no. 4.

*Magazines* means magazines and other materials printed on similar paper.

*Major appliance* means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator or stove.

*Multiple-family dwelling* means a property containing five or more residential units, including units which are occupied seasonally.

*Newspaper* means a newspaper and other materials printed on newsprint.

*Nonresidential facilities and properties* mean commercial, retail, industrial, institutional and governmental facilities and properties. Such terms do not include multiple-family dwellings.

*Office paper* means high grade printing and writing paper from offices in nonresidential facilities and properties. Printed white ledgers and computer printouts are examples of office paper generally accepted as high grade. Such term does not include industrial process waste.

*Other resins* and *multiple resins* mean plastic resins labeled by the SPI code no. 7.

*Person* includes any individual, firm, corporation, partnership, business entity, association, local governmental unit, state agency or authority, or federal agency.

*PETE* means polyethylene terephthalate, labeled by the SPI code no. 1.

*Plastic container* means an individual, separate, rigid plastic bottle, can, jar or carton, except a blister pack, that is originally used to contain a product that is the subject of a retail sale.

*Postconsumer waste* means solid waste, other than solid waste generated in the production of goods, hazardous waste, as defined Wis. Stats. § 291.07(7), waste from construction and demolition of structures, scrap automobiles or high volume industrial waste, as defined in Wis. Stats. § 289.01(17).

*PP* means polypropylene, labeled by the SPI code no. 5.

*PS* means polystyrene, labeled by the SPI code no. 6.

*PVC* means polyvinyl chloride, labeled by the SPI code no. 3.

*Recyclable materials* includes lead acid batteries; major appliances; waste oils; yard wastes; aluminum containers; corrugated papers or other container boards; foam polystyrene packaging; glass containers; magazines; newspapers; office papers; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins; steel containers; waste tires; and bimetal containers.

*Solid waste* has the meaning specified in statute.

*Solid waste facility* has the meaning specified in Wis. Stats. § 209.01.

*Solid waste treatment* means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. The term "treatment" includes incineration.

*Waste tire* means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

*Yard waste* means leaves, grass clippings, yard and garden debris and brush, including stumps, roots or shrubs with intact root balls.  
(Code 1993, § 11.19(10))

**Cross References:** Definitions generally, § 1-2.

**Sec. 66-72. Purpose.**

The purpose of this article is to promote recycling, composting and resource recovery through the administration of an effective recycling program, as provided in Wis. Stats. § 287.116 and Wis. Admin. Code ch. NR 544.  
(Code 1993, § 11.19(2))

**Sec. 66-73. Statutory authority.**

This article is adopted as authorized under Wis. Stats. § 287.09(1)(a).  
(Code 1993, § 11.19(3))

**Sec. 66-74. Abrogation and greater restrictions.**

It is not intended by this article to repeal, abrogate, annul, impair or interfere with any existing rule, regulation, ordinance or permit previously adopted or issued pursuant to law. However, whenever this article imposes greater restrictions, the provisions of this article shall apply.  
(Code 1993, § 11.19(4))

**Sec. 66-75. Interpretation.**

In its interpretation and application, the provisions of this article shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by statute. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this article is required by statute, or by a standard in Wis. Admin. Code ch. NR 544, and where the article provision is unclear, the provision shall be interpreted in light of the statute and the Wis. Admin. Code ch. NR 544 standards in effect on the date of the adoption of the ordinance from which this article is derived, or in effect on the date of the most recent text amendment to this article.  
(Code 1993, § 11.19(5))

**Sec. 66-76. Applicability.**

The requirements of this article apply to all persons within the village.  
(Code 1993, § 11.19(7))

**Sec. 66-77. Administration.**

The provisions of this article shall be administered by the village board and its duly designated agents.  
(Code 1993, § 11.19(8))

## **Sec. 66-78. Enforcement; violations; penalties.**

(a) For the purpose of ascertaining compliance with the provisions of this article, any authorized officer, employee or representative of the solid waste contractor for the village and/or the police department may inspect recyclable materials separated for recycling, postconsumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings, and nonresidential facilities and properties, and any records relating to recycling activities, which shall be kept confidential, when necessary, to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the solid waste contractor and/or the police department who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper or interfere with such an inspection.

(b) Any person who violates a provision of this article may be issued a citation by the police department. The issuance of a citation shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

(c) Penalties for violations of this article may be assessed as follows:

- (1) Any person who violates section 66-86 may be required to forfeit \$50.00 for a first violation, \$200.00 for a second violation and not more than \$2,000.00 for a third or subsequent violation.
- (2) Any person who violates a provision of this article, except section 66-86, may be required to forfeit not less than \$10.00, nor more than \$1,000.00 for each violation.

(Code 1993, § 11.19(19))

## **Sec. 66-79. Removal of deposited recyclables.**

(a) *Permission required.* No person, unless granted permission by the village allowing for the collection and removal of recyclable materials, shall collect or remove any recyclable material which has been deposited or placed by any person adjoining such premises for collection and disposal.

(b) *Exception.* For the purposes of this section, the term "recyclable material" shall not include the usual household appliances which may be deposited for collection and disposal.

(c) *Enforcement.* The duly authorized police officers of the police department shall exclusively enforce the provisions of subsection (a) of this section.

(d) *Violations; penalties.*

- (1) *First offense.* Any person who shall violate the provisions of subsection (a) of this section shall, upon conviction, forfeit not less than \$25.00, nor more than \$100.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding three days.
- (2) *Second offense.* Any person found guilty of violating subsection (a) of this section, who has previously been convicted of a violation of such subsection within one year, shall, upon conviction, forfeit not less than \$50.00, nor more than \$500.00 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six days.
- (3) *Third offense.* Any person found guilty of violating subsection (a) of this section, who has previously been convicted of a violation of such subsection two times within one year, shall, upon conviction, forfeit not less than \$100.00, nor more than \$500.00 for such third offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding nine days.

(Code 1993, § 11.21)

#### **Sec. 66-80. Separation of recyclable materials.**

(a) Occupants of single-family and two- to four-unit residences, multiple-family dwellings, and nonresidential facilities and properties shall separate the following materials from postconsumer waste:

- (1) Lead-acid batteries.
- (2) Major appliances.
- (3) Waste oil.
- (4) Yard waste.
- (5) Aluminum containers.
- (6) Bimetal containers.
- (7) Corrugated paper or other container board.
- (8) Foam polystyrene packaging.

- (9) Glass containers.
- (10) Magazines.
- (11) Newspaper.
- (12) Office paper.
- (13) Rigid plastic containers of PETE, HDPE, PVC, LDPE, PP, PS and other resins or multiple resins.
- (14) Steel containers.
- (15) Waste tires.

(b) The separation requirements of subsection (a) of this section do not apply to the following:

- (1) Occupants of single-family and two- to four-unit residences, multiple-family dwellings, and nonresidential facilities and properties that send their postconsumer waste to a processing facility licensed by the state department of natural resources (DNR) that recovers the materials specified in subsection (a) from solid waste in as pure a form as is technically feasible.
- (2) Solid waste which is burned as a supplemental fuel at a facility, if less than 30 percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (3) A recyclable material for which a variance has been granted by the DNR under Wis. Stats. § 287.11(2m) or Wis. Admin. Code ch. NR 544.14.

(Code 1993, § 11.19(11), (12))

#### **Sec. 66-81. Care of separated recyclable materials.**

To the greatest extent practicable, the recyclable materials separated in accordance with section 66-80(a) shall be clean and kept free of contaminants, such as food or product residue, oil or grease, or other nonrecyclable materials, including, but not limited to, household hazardous waste, medical waste and agricultural chemical containers. Recyclable materials shall be stored in a manner which protects them from wind, rain and other inclement weather conditions.

(Code 1993, § 11.19(13))

#### **Sec. 66-82. Management of lead-acid batteries, major appliances, waste oil and yard waste.**

Occupants of single-family and two- to four-unit residences, multiple-family dwellings, and nonresidential facilities and properties shall manage lead-acid batteries, major appliances,

waste oil and yard waste as follows:

- (1) Lead-acid batteries shall be brought to the village recycling center or taken to a licensed vendor of the resident's choice.
- (2) Major appliances shall be handled at the village recycling center and then removed by a licensed vendor, or the resident may take such appliances to a licensed vendor of his choice.
- (3) Waste oil shall be handled at the village recycling center and then removed by a licensed vendor, or the resident may take such waste oil to a licensed vendor of his choice.
- (4) Yard waste shall be taken to the village compost site or other appropriate yard waste management unit.

(Code 1993, § 11.19(14))

**Sec. 66-83. Preparation and collection of recyclable materials.**

Except as otherwise directed by Wis. Admin. Code ch. NR 544, occupants of single-family and two- to four-unit residences shall do the following for the preparation and collection of the separated materials specified in section 66-80(a)(5)--(15):

- (1) Aluminum containers shall be cleaned and brought to the village recycling center or other licensed vendor.
- (2) Bimetal containers shall be cleaned, ends cut and brought to the village recycling center or taken to another licensed vendor.
- (3) Corrugated paper or other containerboard shall be clean and flattened, and brought to the village recycling center or taken to another licensed vendor.
- (4) Foam polystyrene packaging shall be cleaned and brought to the village recycling center or taken to another licensed vendor.
- (5) Glass containers shall be cleaned, caps removed and taken to the village recycling center or an appropriate licensed vendor.
- (6) Magazines shall be taken to the village recycling center or other licensed vendor.
- (7) Newspapers shall be put into brown paper bags and taken to the village recycling center or other licensed vendor.

- (8) Office paper shall be taken to the village recycling center or other licensed vendor.
- (9) Rigid plastic containers shall be prepared and collected as follows:
  - a. Plastic containers made of PETE, including no. 1 liquor and soda containers, shall be cleaned, caps removed and taken to the village recycling center or other licensed vendor.
  - b. Plastic containers made of HDPE, including no. 2 milk and shampoo containers, shall be cleaned, caps removed and taken to the village recycling center or other licensed vendor.
  - c. Plastic containers made of PVC, including yogurt, cottage cheese, etc., shall be temporarily allowed in the landfill.
  - d. Plastic containers made of LDPE, including no. 4 containers, shall be temporarily allowed in the landfill.
  - e. Plastic containers made of PP, including no. 5 containers, shall be temporarily allowed in the landfill.
  - f. Plastic containers made of PS, including no. 6 containers, and all foam polystyrene packaging shall be cleaned and taken to the village recycling center or other licensed vendor.
  - g. Plastic containers made of other resins or multiple resins, including no. 7 containers, shall be temporarily disposed of by residents in the landfill.
- (10) Steel containers shall be cleaned, ends removed and taken to the village recycling center or a licensed vendor.
- (11) Waste tires shall be disposed of by residents at an approved facility other than the village recycling center.

(Code 1993, § 11.19(15))

**Sec. 66-84. Responsibilities of owners and designated agents of multiple-family dwellings.**

- (a) Owners or designated agents of multiple-family dwellings shall do all of the following to recycle the materials specified in section 66-80(a)(5)--(15):
  - (1) Provide adequate, separate containers for the recyclable materials.
  - (2) Notify tenants about the established recycling program, in writing, at the time of renting or leasing the dwelling and at least semiannually thereafter.

- (3) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
- (4) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including the name, address and telephone number of such person or company.

(b) The requirements specified in subsection (a) of this section do not apply to the owners or designated agents of multiple-family dwellings, if the postconsumer waste generated within the dwelling is treated at a processing facility licensed by the state department of natural resources (DNR) that recovers for recycling the materials specified in section 66-80(a)(5)--(15) from solid waste in as pure a form as is technically feasible.

(Code 1993, § 11.19(16))

**Sec. 66-85. Responsibilities of owners and designated agents of nonresidential facilities and properties.**

(a) Owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in section 66-80(a)(5)--(15):

- (1) Provide adequate, separate containers for the recyclable materials.
- (2) Notify all users, tenants and occupants of the properties, in writing, at least semiannually, of the established recycling program.
- (3) Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
- (4) Notify the users, tenants and occupants of the reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including the name, address and telephone number of such person or company.

(b) The requirements specified in subsection (a) of this section do not apply to the owners or designated agents of nonresidential facilities and properties, if the postconsumer waste generated within the facility or property is treated at a processing facility licensed by the state department of natural resources (DNR) that recovers for recycling the materials specified in section 66-80(a)(5)--(15) from solid waste in as pure a form as is technically feasible.

(Code 1993, § 11.19(17))

**Sec. 66-86. Disposal and burning of recyclable materials separated for recycling.**

Any of the materials specified in section 66-80(a)(5)--(15) which have been separated for recycling may not be disposed of by a person in a solid waste disposal facility or burned in a solid waste treatment facility, except waste tires may be burned with energy recovery in a solid waste treatment facility.

(Code 1993, § 11.19(18))

**Chapters 67--69**

**RESERVED**

## Chapter 70

### STREETS, SIDEWALKS AND OTHER PUBLIC PLACES\*

\* **Cross References:** Any ordinance authorizing street maintenance agreements saved from repeal, § 1-8(9); any ordinance regarding the lighting of streets and alleys saved from repeal, § 1-8(10); buildings and building regulations, ch. 14; moving buildings, § 14-111 et seq.; building numbering, § 14-141 et seq.; mobile homes, ch. 50; parks and recreation, ch. 58; subdivisions, ch. 74; street layouts for subdivisions, § 74-181; design standards for alleys, § 74-187; street names in subdivisions, § 74-188; traffic and vehicles, ch. 78; through streets, § 78-81 et seq.; utilities, ch. 82; wireless facilities, ch. 86; zoning, ch. 90; required off-street vehicle parking, § 90-1007.

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 70-1.	Excavations in streets.		
Sec. 70-2.	Removal and destruction of lights, barriers and property.		
Sec. 70-3.	Sidewalks.	06-2016	04/25/16
Sec. 70-4.	Placement of merchandise for sale.		
Sec. 70-5.	Vehicular travel.		
Sec. 70-6.	Snow and ice.	01-2012	01/09/12
Sec. 70-7.	Road names.		
Sec. 70-8.	Raking leaves and refuse.		
Sec. 70-9.	Violations; penalties.		
Secs. 70-10 – 70.40.	Reserved.		
<b>Article II. Road Standards</b>			
Sec. 70-41.	Construction.		
Secs. 70-42 – 70-49.	Reserved.		
<b>Article III. Polices for Recouping Costs of Infrastructure Improvements</b>			
Sec. 70-50.	Purpose.		
Sec. 70-51.	General Special Assessment Policy.		
Sec. 70-52.	Connection Charges in Lieu of Special Assessments.		

**ARTICLE I.**  
**IN GENERAL**

**Sec. 70-1. Excavations in streets.**

(a) *Permit required.* No person shall injure, break, remove or tear up any pavement, street, alley, highway, road, sidewalk, crosswalk, drain, sewer, public right-of-way or public ground, or any part thereof, or dig any hole, ditch or drain in any pavement, street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public ground, or remove any gravel, sod, dirt or sand from any pavement, street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public ground or from the east end of any street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public ground abutting on Lake Michigan, or place, or allow to be placed, on any pavement, street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public ground any building, material, equipment or machinery, or obstruct travel thereon of any nature, without a written permit obtained from the village board or its authorized agent. All work authorized by the permit shall be completed within the time specified in the permit. The fee for such permit shall be as determined from time to time by resolution of the village board.

(b) *Removing material.* No openings in streets, highways, roads or alleys will be permitted when the ground is frozen, except where absolutely necessary, as determined by the village board or its authorized agent. In opening any street or other public way, all materials for paving or ballasting shall be removed, together with the excavated material from trenches, and shall be placed where the least practicable inconvenience to the public will be caused and will permit the free passage of water along the gutters.

(c) *Barriers and lights.* Every person who receives a permit shall place upon or around any building, material, machinery, equipment or other obstruction located in whole or part upon any street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public ground, and maintain in working order thereon until such building, material, machinery, equipment or other obstruction is completely removed, from one hour after sunset until daylight of the next day, sufficient lights and barriers to warn all persons passing along or across such street, alley, road, highway, sidewalk, crosswalk, public right-of-way or public ground of the presence of such material, machinery, equipment or other obstruction.

(d) *Bonds for drainlaying.* Drains shall be laid only on the condition that the person has filed with the clerk-treasurer a bond and insurance policy for all damages that may result from such person's neglect of any necessary precautions against all accidents to persons or property.

(e) *Closing streets to traffic.* One lane of traffic shall be maintained at all times unless a permit for a temporary closing is granted by the village board. Application for such closing shall be made, in writing, to the village board or its authorized agent and shall only be granted on the condition that the applicant for such permission shall notify the police department and fire department of the time and place of such closing, and that the applicant barricade the street at the

intersections of each end of the block wherein the opening is made and post signs informing the public that the street is closed. The barricades shall be protected in the nighttime in the manner provided for openings.

(f) *Trenches.* No trench shall have a clear width inside the necessary sheeting or bracing which is more than 12 inches greater than the maximum outside dimension of the pipe or conduit being installed, except that no trench is required to have a clear width of less than 30 inches. All trenches shall be sheeted and braced in accordance with the current regulations of the department of commerce.

(g) *Backfilling.* All excavated material from openings shall be removed from the site and such openings shall be backfilled with an approved material to within ten inches of the finished grade. The remaining distance shall be backfilled with crushed stone to its existing grade and the pavement material shall be replaced in kind. Such fill material shall be slurry sand or granular fill, tamped by mechanical means in two-foot lifts, as may be directed by the village board or its authorized agent. All water or gas pipes, electric or telephone cables or conduit, and drain and sewer tiles must be protected from injury or settling in a manner satisfactory to the village board or its authorized agent.

(h) *Street restoration.*

- (1) In the case of a permit to open a paved street which is concrete, asphalt or brick surface, the applicant for a permit, in addition to the permit fee specified in subsection (a) of this section, may be required, as determined by the village board or its authorized agent, to deposit with the village the sum set by the village board to cover the expense of relaying such pavement, which shall be performed by the village board or under its direction or supervision. Where the street restoration area exceeds 125 square feet, there shall be an additional fee as set by the village board. In the case of a permit to open an unpaved street which has a crushed stone base, the applicant for a permit shall deposit with the village, in addition to the permit fee specified in subsection (a) of this section, the sum as set by the village board. Where the street restoration area exceeds 125 square feet, there shall be an additional fee as set by the village board. In case of a permit to open a public right-of-way, the applicant shall deposit with the village, in addition to the permit fee specified in subsection (a) of this section, the sum as set by the village board. The sum shall be deposited in the name of the permit applicant. Neither the permit fee or any deposit shall be refundable.
- (2) Prior to the paving or repaving of any village street, the village board may determine that, in the interest of preserving and protecting such proposed street from unnecessary excavations, property owners abutting on such street should, upon written notice by the village board, extend such utilities or water lines, etc., as may be then present in the right-of-way, to the lot line on the street proposed to be paved or repaved.

- (3) The requirements for permit fees and deposits set forth in subsections (h)(1) and (h)(2) of this section shall apply to each such property owner. Written notice shall give the property owner not less than 30 days to arrange for the necessary extensions. If the property owner fails make such arrangement, the village board may then order the work done and the cost thereof, including the permit fees and deposits, shall be payable upon demand by the village. If the amount is not paid to the village, it may be added to the tax rolls and collected as any other tax.

(i) *Final inspection; maintenance.* Upon the completion of backfilling, the applicant shall request final inspection of the trench. Upon acceptance of the trench by the village board or its authorized agent, the village shall thereafter maintain the trench, including the replacement of the oiled surface on all oiled streets and the bituminous mat on bituminous surfaced streets.

(j) *Traffic hazards.* Prior to the time of acceptance of the backfilled trench, if any opening made pursuant to this article shall become a hazard to vehicular traffic or pedestrians due to settlement or any other cause, the village board or its authorized agent may protect such opening by barricades or make such repairs as may be necessary, and in either event, charge the costs of furnishing the protection or making the repairs to the applicant for the opening permit.

(k) *Liability for violations.* Any person who shall violate any of the provisions of this article shall pay all damages and costs which may arise from such offense.

(l) *Permit required for excavations near sewers.* No person shall uncover or excavate under or around any sewer, for any purpose whatsoever, without the written permit of the village board or its authorized agent.  
(Code 1993, § 8.01)

## **Sec. 70-2. Removal and destruction of lights, barriers and property.**

(a) No person shall knock down, destroy, injure or remove any barrier, light or other protection in and upon any pavement, street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public place which has been set up in accordance with the provisions of section 70-1(c) or pursuant to other directions of the village board or any village official.

(b) No person shall walk upon, drive upon or in any way injure, disfigure or destroy any pavement upon any street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public place which has not been opened and is not open at the time for public use or travel.

(c) No person shall knock down, destroy, injure or remove any manhole, water hydrant or catchbasin, in whole or in part, located in or upon any street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public place in the village.

(d) No person shall enter upon any property from any street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public place with any vehicle, machinery or

equipment, or cause any vehicle, machinery or equipment to be entered thereon from any street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public place, except at and over a complete driveway, with a culvert installed therein where necessary, for drainage, connecting such property with the traveled portion of such street, alley, highway, road, sidewalk, crosswalk, public right-of-way or public place.  
(Code 1993, § 8.02)

### **Sec. 70-3. Sidewalks.**

(a) No person shall build any sidewalk or rebuild an existing sidewalk in a public street in the village without a permit for such construction. Application shall be made to the Director of Engineering or designee for permission to construction or rebuild such sidewalk. The permit application shall contain a full statement of the materials to be used in the construction of the sidewalk, the width thereof, and shall request that the line and grade for construction of such sidewalk be furnished by public works.

(b) Any person may lawfully rebuild his sidewalk to a grade corresponding with the grade of the adjoining sidewalk unless he shall have been ordered to rebuild such sidewalk on a different grade. The Director of Engineering or designee may order any sidewalk which is unsafe, defective or insufficient to be repaired or removed and replaced. A copy of the order directing such laying, removal and replacement or repair shall be served on the owner or agent of each lot or parcel of land in front of which such work is ordered. Whenever any such owner shall neglect to do such work for a period of 20 days after service of the order, the village may cause such work to be done at the expense of such owner. All work for such construction shall be let by contract to the lowest responsible bidder. Any amount unpaid by the owner shall be charged by the clerk-treasurer to each lot or parcel of land and entered on the tax roll as a special tax against the lot or parcel of land, and such amount shall be collected in all respects like other taxes upon real estate.

(c) All sidewalks constructed within the Village of Mount Pleasant shall conform to the United States federal guidelines adopted as the "2010 ADA Standards for Accessible Design," including both the Title II regulations at 28 CFR 35.151 and the 2004 ADAAG at 36 CFR part 1191, appendices B and D.

#### **(1) Definitions of Words Used Herein.**

- a. "Crack" shall mean a fissure within a sidewalk square.
- b. "Joint" shall mean a cleavage created for expansion purposes which separates two or more sidewalk squares.
- c. "Pitch" shall mean the constructed slope of a sidewalk to the street (normally one-quarter (1/4") inch per foot).
- d. "Sidewalk(s)" shall mean a public sidewalk within the street right-of-way.

- e. "Sidewalk Square" shall mean that portion of a sidewalk bordered by joints and the sidewalk edge.
- f. "Spalling" shall mean chipped or splintered condition of a sidewalk square.

(2) Notice and Special Assessments.

Section 66.0907, Wisconsin Statutes, incorporated herein by reference, shall govern notices and special assessments.

(3) Examples of Conditions that Could Develop Into Hazards.

Sidewalk Inspectors shall consider the following examples of conditions, which, if not addressed, could develop into a hazard, in determining whether to order a sidewalk square replaced or repaired:

- a. There is a difference in height greater than one-quarter (1/4") inch but less than one-half (1/2") inch; beveling the surface with a maximum grade of 50% is required. If the height is greater than one-half (1/2") inch; removal and replacement is required unless a ramp can be installed with a maximum grade of 8.33%.
- b. The transverse slope of the sidewalk is greater than 2 percent.
- c. There is a crack greater than one-half (1/2") inch in width.
- d. There is a difference in height greater than one-half (1/2") inch in the elevation of adjacent sections of a crack.
- e. There is a depression greater than one-half (1/2") inch within a sidewalk square.
- f. There is spalling which has resulted in a surface texture of one-quarter (1/4") inch or more every 30 inches.
- g. There has been a temporary sidewalk repair.
- h. Curb ramps shall not exceed 8.33%.

(4) Temporary Sidewalk Repair.

No sidewalk square shall be ordered or arranged to be repaired by way of crack fillers, wedges, surface treatments or the like by a Sidewalk Inspector, except as a temporary measure pending replacement. Sidewalk squares which, upon inspection, are noted to have been temporarily

repaired shall be ordered or arranged to be replaced. However, where the only defect is a difference in elevation due to settlement, it shall be permissible to remedy said condition without replacing the sidewalk square.

(5) Documentation of Inspection.

Sidewalk Inspectors, upon finding a sidewalk in need of replacement or repair, shall document the date of sidewalk inspection and condition of the sidewalk, and notify the property owner in writing of the condition of the sidewalk and corrective action required.

(d) No person shall place, deposit or cast, or cause to be placed, deposited or cast, upon any sidewalk in the village, any timber, wood, lumber, ashes, rubbish, offal, vegetables, paper shavings, carcasses, earth or any thing or substance whatsoever which may obstruct any such sidewalk or impede, hinder or endanger travel thereon, tend to injure or disfigure such sidewalk, or tend to render the sidewalk unclean or a nuisance. No person shall cause any wagon, carriage, cart, automobile or other vehicle, or any box, crate, bale, package, merchandise or other thing to stand or be in or upon any such sidewalk.

(e) Any constable or other designated official of the village shall require any person who may have placed, or caused or permitted to be placed, any of the items set forth in subsection (c) of this section upon any sidewalk in the village, or any person who may be the owner of such items, to immediately remove the items, or cause the removal thereof, from such sidewalk and, in case such person shall neglect or fail to remove the items within a reasonable time after being so notified, it shall be the duty of such constable or village official to remove, or cause to be removed, from such sidewalk, at the expense of the person who placed, or caused to be placed, such items upon such sidewalk or who is the owner of the items, or both.

**Sec. 70-4. Placement of merchandise for sale.**

No person shall place, or cause to be placed, out for sale any goods, wares or merchandise on or over a sidewalk in the village.

(Code 1993, § 8.04)

**Cross References:** Licenses and permits, ch. 46.

**Sec. 70-5. Vehicular travel.**

(a) No person shall place, or cause to be placed, drive, ride, push or draw any horse or other beast of burden, or any wagon, cart, carriage, automobile, bicycle or other vehicle, upon any sidewalk or crosswalk in the village so as to obstruct the sidewalk or crosswalk.

(b) No person shall fasten, or cause to be fastened, any horse or other animal in such a way that such horse or animal, or any vehicle or equipment attached to the horse or animal, shall obstruct any sidewalk or crosswalk in the village.

(Code 1993, § 8.05)

## **Sec. 70-6. Snow and ice.**

(a) The occupants or owners of every building, tenement or premises fronting upon any street within the village, and the owners of any unoccupied building or premise fronting on any street in the village, shall keep the sidewalks adjoining such premises reasonably free and clear of snow and ice and, after and during every snow, such persons shall clear the snow from such sidewalks before 10:00 a.m. of each day. No snow or ice shall be placed upon any street, alley, highway, road, sidewalk, and crosswalk. The Village shall attempt to contact property owners, which violate the intent of the Ordinance, prior to snow remediation by the Village. Where such property occupant(s) or owner(s) fails to remove snow such that it may cause a hazard to pedestrians, the motoring public, or Village snow removal equipment, the Village may cause such snow (obstruction) to be removed to provide safe passage by the public on any portion of the public right-of-way and charge personnel time and equipment expense to the occupant or owner at such rate as adopted by the Village Board as identified in Sec. 70-6(c)(3) below.

(Code 1993, § 8.06)

(b) The Village shall notify property owners of violations and penalties. Notifications shall be provided by a minimum of two of the following methods.

- (1) Identifying snow removal ordinance in the Village newsletter.
- (2) Placement of a one time notice in the official newspaper for public notices.
- (3) Personal letter mailed by the U.S. Postal Service mailed to the property owner.

(c) Fines and fees may be levied against the property as follows:

- (1) Inspection fee of \$50 for each inspection.
- (2) Fine of \$50-\$500.
  - (a) First time offense \$50.
  - (b) Second time offense \$100.
  - (c) Third time offense \$250.
  - (d) Further offenses \$500 each occurrence.
- (3) Fee to remove snow via contracted or Village personal equivalent to costs incurred by the Village. Village charge of \$90/hr shall be levied for time spent by Village employee with hand controlled snow removal equipment, or a charge of \$125 per hour for operator and driven snow

removal equipment (i.e. front end loader, truck with mounted snow plow), and a Portal to Portal Charge of one quarter hour plus administrative costs.

(d) This ordinance does not apply to the Village of Mount Pleasant or other governmental entities.

#### **Sec. 70-7. Road names.**

In accordance with Wis. Stats. § 81.01(11), which requires the assignment of names for each road under the jurisdiction of the village, the road names as shown on the plat on file in the clerk-treasurer's office are hereby assigned.  
(Code 1993, § 8.07)

#### **Sec. 70-8. Raking leaves and refuse.**

No person shall rake or place, or otherwise cause to be raked or placed, any leaves, branches or other refuse onto any street, highway or public right-of-way within the village.  
(Code 1993, § 8.08)

#### **Sec. 70-9. Violations; penalties.**

Except as otherwise provided, any person found to be in violation of any provision of this chapter, or any rule or regulation promulgated under this chapter, shall be subject to a penalty as provided in section 1-15.  
(Code 1993, § 8.10)

#### **Secs. 70-10--70-40. Reserved.**

### **ARTICLE II.**

#### **ROAD STANDARDS**

#### **Sec. 70-41. Construction.**

Any division of land as provided by statute, a subdivision control ordinance of the county or chapter 74 of this Code shall be subject to the following conditions for approval:

- (1) The minimum right-of-way width for a local street shall be 66 feet and the minimum right-of-way width for a collector street shall be 80 feet.
- (2) The following sections are typical cross sections for the village. The use of

a particular section shall be determined by the village board prior to the preparation of roadway plans:

- a. *Rural section.*
    1. *Local street.* Sixty-six-foot right-of-way, typical section RU-1.
    2. *Collector street.* Eighty-foot right-of-way, typical section RU-2.
  - b. *Urban section.*
    1. *Local street.* Sixty-six-foot right-of-way, typical section URB-1.
    2. *Collector street.* Eight-foot right-of-way, typical section URB-2.
    3. *Commercial street.* Eight-foot right-of-way, typical section URB-2C.
  - c. *Industrial section.*
    1. *Urban.* Typical section IND-URB.
    2. *Rural.* Typical section IND-RU.
- (3) The developer or his designated agent shall submit two sets of plans for the proposed road construction to the village for review of conformance to the village standards. A plat of the street, showing all legal drainage easements, descriptions and legal land descriptions, shall be furnished to the village.
  - (4) Upon completion of final subgrade work and prior to the placement of crushed aggregate base material, the roadway will be inspected by the village engineer to ensure that conformance to the proposed grades is maintained.
  - (5) Any street constructed in the village shall conform to one of the typical sections referred to in subsection (2) of this section and shall be in accordance with the following minimum specifications:
    - a. *Roadway type.* The type of roadway shall be determined by the type of drainage facilities available. Where the village board determines that there are storm sewer facilities available or are to be made available, the roadway section shall incorporate a curb

and gutter section conforming to the typical sections. If the storm sewer facilities are not available, the rural roadway section may be utilized.

b. *Base course.* The crushed aggregate base course will vary in width in conformance with the typical section utilized and will conform to the following depth requirements:

1. The base course for the residential sections shall be ten inches of crushed stone, five inches of no. 2 stone (1 1/2 inches), five inches of three-quarter-inch traffic bond.
2. The depth for the base course for the industrial and commercial sections shall be 14 inches of crushed stone, eight inches of no. 2 stone (1 1/2 inches) and six inches of three-quarter-inch traffic bond.

Such stone shall be of a quality at least equal to the quality of stone used on streets maintained by the village. Prior to application, the grade of crushed stone must be approved by the village highway superintendent or the village engineer prior to application.

c. *Curb and gutter.*

1. Concrete curb and gutter utilized in the residential sections shall conform to the typical section for a three-inch mountable curb and gutter. In the commercial and industrial areas, the curb and gutter shall conform to the 30-inch type D standard curb and gutter section.
2. The concrete curb and gutter shall not be placed earlier than nine months, nor later than three years after construction of the base course. If building permits have been issued for 50 percent or more of the lots within the subdivision, the developer shall complete the curb and gutter installation no later than 18 months after construction of the base course. Approval must be obtained from the village prior to construction of the curb and gutter.
3. Whenever the construction of curb and gutter is required pursuant to subsection (5)a. of this section, the subdivider shall furnish a document or surety bond sufficient to ensure compliance with such construction within the time period, not earlier than nine months, nor later than three years after construction of the base course, all without expense to the village.

4. Whenever any portion of curb and gutter existing in the village shall become so deteriorated and out of repair as to be unsafe, replacement thereof shall be made by the village, without cost to the abutting property owner.
- d. *Drainage ditches.* In areas where the rural section is incorporated, the drainage ditches on each side shall have a minimum of three to one side slopes and a depth sufficient to provide adequate drainage. Drainage ditches shall not be less than two feet, two inches in depth below the finished grade of the centerline of the street. Where deemed necessary by the village, the bottom of the drainage ditch shall be sodded with sod acceptable to the village and in such a manner that any and all erosion will be eliminated. Sod used shall measure 18 inches by 72 inches, and the distance of laying the sod shall be determined by the village highway superintendent. Sod shall be laid at both ends of all culverts unless otherwise stated.
- e. *Culverts required at driveway entrances.* Culverts of sufficient length and diameter to provide adequate drainage and access shall be placed at all driveway entrances. Prior to installation, such culverts are subject to approval of the village engineer.
- f. *Culs-de-sac.* A cul-de-sac with a minimum right-of-way radius of 75 feet or a turnaround T with a minimum roadway length of 80 feet and minimum width of 20 feet shall be constructed to the such specifications and shall be provided on all dead-end streets and roads greater than one lot or 200 feet in depth.
- g. *Slopes of ditches and terrace areas.* The slopes of the ditches and terrace areas within the right-of-way shall be dressed with a minimum of four inches of topsoil and seeded with perennial rye grass mixed with Kentucky 31 fescue and Timothy seed at a rate of one part perennial rye grass, one part Timothy seed and two parts of Kentucky 31 fescue. Such seeding shall be completed prior to the acceptance of the base course. Following construction of the curb and gutter, all disturbed areas shall be restored as outlined in this subsection.
- h. *Culverts crossing rural streets.* All culverts crossing rural streets shall be at least 44 feet in length and of such diameter as prescribed by the village engineer. Any culverts needed for entrance to any village road shall be of a sufficient length and diameter as prescribed by the village engineer.

- i. *Removal of dirt and topsoil.* All black dirt and other topsoil shall be removed from under the roadway and curb areas.
  - j. *Crushed stone.* No crushed stone shall be allowed to be laid on frozen ground or ground which has a water content which is too high, all in accordance with the approval of the village highway superintendent.
  - k. *Responsibility of developer.* Prior to the paving of any road, the developer shall be responsible for any additional stone or grading work required. The work shall be completed by July 1 of the calendar year in which the paving is to be completed. If the developer fails to complete the work by July 1, the village shall complete the work and charge the cost thereof to the developer. The July 1 date may be subject to exceptions for weather related reasons or extraordinary circumstances as determined by the village highway superintendent.
- 1. *Required inspections.*
    - 1. The construction of any public road and storm sewer shall take place under the supervision of a licensed professional engineer, except for the binder/topping and proof roll, which shall be inspected by the village engineer. All public sanitary sewer infrastructure shall be staked and inspected by the village engineer. Public water mains shall be inspected per requirements and standards of the state department of natural resources and /or the City of Racine Water Utility.
    - 2. Prior to commencing the construction of any public road or storm sewer, the developer shall inform the village of its selection of a licensed professional engineer who will be responsible for staking and full-time inspection of the work pertaining to the construction of such road and storm sewer. The professional engineer or firm thereof must have a minimum of ten years of municipal engineering experience in the state and carry professional liability insurance, naming the village as an additional insured, in the amount of \$2,000,000.00.
    - 3. The supervising licensed professional engineer shall report directly and on a timely basis to the village administrator or assigned staff on the progress of the inspection and problems found during the inspection. The expense for such inspections will be paid by the developer. As an

alternative and with the agreement of the village, the developer may have the village perform such work, and fees shall be paid in accordance with the developer's agreement. Upon completion of the work, the licensed professional engineer will certify to the village that the roads and associated public infrastructure (storm sewer and water main) have been constructed according to plans, specifications and all applicable permits, approvals, codes and ordinances.

4. Inspection and daily log requirements are as described in subsection (5)l.7. of this section, as amended from time to time.
5. In addition, the engineer in charge must be able to provide as-built information, in an electronic format, meeting village requirements.
6. The developer will be assessed a charge based on the time it takes to input the development as-built data into the village's existing electronic data base system.
7. Inspection requirements are generally as follows:

Minimum Inspection Standards for Public Road Construction			
Item	Inspection Required		
	Full-Time	Part-Time	Verification Upon Completion
Roadway cut section		X	
Roadway fill sections	X		
Excavation below subgrade	X		
Filling of excavation below subgrade	X		
Proofrolling subgrade	X		
Placement of aggregate base course	X		
Proofrolling aggregate base course	X		
Installation of curb and gutter	X		
Pavement placement	X		
Pavement marking and signage		X	
Restoration		X	
Erosion control installation and maintenance		X	
Punchlist work			X

Minimum Inspection Standards for Public Storm Sewer Projects			
	Inspection Required		
Item	Full-Time	Part-Time	Verification Upon Completion
Pipe Installation	X		
Structure installation (MHs, CB, FES)	X		
Manhole invert pouring		X	
Restoration of lawn areas			X
Restoration of pavement			X
Detention pond excavation			X
Detention pond dam/berm construction			X
Swale grading		X	
Erosion control installation and maintenance		X	
Punchlist work			X

Minimum Standards for Inspection Logs		
1.	Project name and date of report.	
2.	Name of firm providing the inspection services, name of inspector, name of supervising engineer and names of all contractors performing the work.	
3.	A detailed description of work performed, including:	
	a)	Bedding and cover material used.
	b)	Type of backfill material used.
	c)	Method of compaction used.
	d)	All drain tiles encountered and method of repair and/or connection to storm sewer system.
	e)	Erosion control methods and maintenance information.
	f)	All problems encountered and method of resolution.

- (6) The subdivider shall furnish either a document acceptable to the village, which shall require compliance with this section, or a surety bond, sufficient to ensure compliance with this section within 15 months from the date of approval, all without expense to the village, which document or surety bond shall also provide that no parcels of land abutting upon the street shall be sold until after the base course has been constructed and approved as provided in this section.
- (7) The use of land included in the plat, adjacent to curves and intersections of such streets, sufficient in width and length for adequate vision thereof for

their use as a street, shall be restricted so as not to interfere with such vision.

- (8) The village shall be notified before culverts are ready to be installed, when rough and finished grading has been completed, before crushed stone is applied and before the construction of curb and gutter. The village highway superintendent or village engineer, or both, shall make one inspection after grading has been completed, one inspection after the required amount of stone and full-time inspection for the curb and gutter construction.
- (9) An inspection of the road shall be made after construction of the base course is completed. The inspection will ensure the sanitary sewers have not been damaged during the road construction. The owner or contractor must be present when the inspection of the street is made.
- (10) All direct costs incurred by the village for review and inspection, including full-time inspection during curb and gutter construction, will be the responsibility of the owner or developer.
- (11) Written certification of the road base and curb/gutter elevations shall be made by the developer's licensed engineer.

(Code 1993, § 8.09; Ord. No. 1-02, 1-14-2002; Ord. No. 6-03, 5-15-2003)

**Secs. 70-42. --70-49. Reserved.**

### **ARTICLE III.**

#### **Polices for Recouping Costs of Infrastructure Improvements**

##### **Sec. 70-50. Purpose.**

The Village regularly installs public infrastructure improvements, such as streets, watermain and sewers at Village cost. In some instances none of such costs should be recouped by either special assessment or connection charges. In some instances, to recover an appropriate share of such costs, special assessment procedures should be used. In other situations, an appropriate cost share should be recovered through the imposition of connection charges.

##### **Sec. 70-51. General Special Assessment Policy.**

(a) The Village will levy special assessments, when appropriate to do so, under and pursuant to Wis. Stat. §66.0703.

(b) In an appropriate case, the Village will levy special assessments under the taxing power of the Village, within a limited and determinable area, for special benefits conferred, but not in excess of the value of the special benefits conferred.

(c) In an appropriate case, the Village will levy special assessments under the police power of the Village, within a limited and determinable area, for special benefits conferred, upon a reasonable basis and in proportion to the benefits accruing.

(d) All special assessments will be apportioned fairly and equitably among properties in similar situations, taking into consideration the uniqueness of individual properties.

(e) Special assessments will only be levied for a local improvement. If a project provides both a community-wide and a local improvement, only the local improvement component will be considered in levying special assessments. In determining whether an improvement is local, in whole or in part, the Village will refer to the then-current Village Comprehensive Plan and other relevant information.

(f) For all special assessments, the Village will consider whether special benefits have the effect of furnishing an uncommon advantage, which either increases the services provided to the property, or otherwise enhances its value. An uncommon advantage must be a benefit that differs in kind, rather than in degree, from benefits enjoyed by the general public.

(g) The Village will not levy a special assessment against any property that is exempt from special assessment under Wisconsin Statutes.

(h) In considering any special assessment for a corner property, the Village will allow a deduction or exemption where a special assessment has previously been levied for the same improvement in an abutting street.

(i) The special assessment costs may include the direct and indirect construction costs, the resulting damages, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the Village, the cost of any architectural, engineering and legal services and any other item of direct or indirect cost that may reasonably be attributed to the proposed work or improvement. The Village Board may include costs incurred when private property is acquired for a public project.

(j) In considering any special assessment, the formula to be used may be any recognized formula, or combination thereof.

(k) In considering any special assessment, costs to be included for calculation of the special assessment will be reduced by the costs added for oversized facilities.

(l) In considering any special assessment, the Village will give consideration to the presence of wetlands, flood plains, conservation easements and similar factors affecting property.

(m) In the situation of property owners in a discrete developed area who petition the Village to extend an improvement to serve their properties, if the owners of 51% or more of the

group of properties to be served by the improvement agree to be specially assessed, all of the properties in the group will be subject to special assessment.

(n) Special assessments may be deferred in certain limited situations.

(o) The Village will periodically review its special assessment payment plan, for installments and interest rates. The current policy is as follows:

Special Assessments shall be paid in full, or in annual installments. Assessments also may be prepaid, partially or in whole, after the installment method has been selected. The number of annual installments in which an assessment is to be paid will be determined in the Preliminary Assessment Resolution, based on the total amount of the assessment, and in accordance with the following:

- (1) If the assessment is less than \$400.00, the assessment shall be paid in one (1) payment, within ninety (90) days of completion of project.
- (2) If the assessment is at least \$400.01 to \$1,500.00, the assessment shall be paid in five (5) annual installments.
- (3) If the assessment is greater than \$1,500.01, the assessment shall be paid in ten (10) annual installments, as determined in the preliminary assessment roll. In no event, shall the assessment installments be for a period longer than ten (10) years.
- (4) The rate of interest on the outstanding balance shall be 1.5% greater than the Village's rate of interest on the bonds which were issued to finance the project, or in the event no bonds were issued, then 1.5% greater than the average rate of interest on all similar bonds issued in the previous calendar year.
- (5) All special assessments are due and payable in full upon subdivision of the property or connection to the improvement for which the special assessment was made.

(p) In all situations where a special assessment has been deferred for more than ten years, as of January 1, 2017, but has not become due and payable because no event described in Paragraph O (5) above has occurred, the special assessment shall be converted to a connection charge, as provided in Section II below.

#### **Sec. 70-52. Connection Charges in Lieu of Special Assessments.**

(a) In the situation of a property owner seeking to extend a public infrastructure improvement to property to allow for development, with the improvement traversing sparsely developed or agricultural areas, the Village may require the requesting property owner to pay to

the Village, in advance, the total amount to extend the improvement to its property. When an additional property connects to the improvement, that property owner will contribute to the original requester's cost, by payment of a connection charge to the Village. The Village will periodically remit such collected sums to the requester or requester's assignee. The amount of the connection charge will be equal to the then-current connection charge, as set by the Village from time to time.

(b) In the situation of a property owner seeking to extend a public infrastructure improvement to property to allow for development, with the improvement traversing sparsely developed or agricultural areas, the Village may charge the requesting property its fair share of the cost of installation to the property and fund the remainder itself, with municipal funds. When an additional property connects to that improvement, that property owner will contribute to the Village's cost by payment of a connection charge to the Village. The amount of the connection charge will be equal to the then-current connection charge, as set by the Village from time to time.

(c) In instances where the Village has installed a public infrastructure improvement entirely at its expense and has not imposed a special assessment for the project, which would otherwise qualify for special assessment, a connection charge will be utilized. When a property connects to the improvement, that property owner will contribute to the Village's cost through a connection charge paid to the Village. The amount of the connection charge will be equal to the then-current connection charge, as set by the Village from time to time.

(d) In considering any connection charge for a corner property, the Village will allow a deduction or exemption where a connection charge has previously been paid for the same improvement in an abutting street.

(e) The Village Clerk will maintain a docket identifying properties which are subject to future connection charges. The Village Clerk will make such docket available to property owners, prospective purchasers, abstracters and title companies.

**Chapters 71--73**

**RESERVED**

## Chapter 74

### SUBDIVISIONS\*

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\* **Cross References:** Any ordinance dedicating or accepting any plat or subdivision in the village saved from repeal, § 1-8(4); buildings and building regulations, ch. 14; mobile homes, ch. 50; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; zoning, ch. 90.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 74-1.	Authority.		
Sec. 74-2.	Purpose.		
Sec. 74-3.	Abrogation and greater restrictions.		
Sec. 74-4.	Interpretation.		
Sec. 74-5.	Definitions.		
Sec. 74-6.	Jurisdiction.		
Sec. 74-7.	Compliance required.		
Sec. 74-8.	Violations; penalties.		
Secs. 74-9 – 74-40.	Reserved.		
<b>Article II. Administration and Enforcement</b>			
<b>Division 1. Generally</b>			
Sec. 74-41.	Compliance required.		
Sec. 74-42.	Dedication and reservation of lands.		
Sec. 74-43.	Reservation of lands for public acquisition.		
Sec. 74-44.	Improvements.		
Sec. 74-45.	Land suitability warning.		
Sec. 74-46.	Variances.		
Sec. 74-47.	Appeals.		
Secs. 74-48 – 74.70.	Reserved.		
<b>Division 2. Preliminary Plats</b>			
Sec. 74-71.	Required.		
Sec. 74-72.	Preapplication consultation.		
Sec. 74-73.	Approval.		
Sec. 74-74.	Required information.		
Sec. 74-75.	Protective covenants.		
Sec. 74-76.	Affidavit.		
Secs. 74-77 – 74-100.	Reserved.		
<b>Division 3. Final Plats</b>			
Sec. 74-101.	Approval and recording.		
Sec. 74-102.	State review.		
Sec. 74-103.	Approving authorities.		
Sec. 74-104.	Objecting agencies.		
Sec. 74-105.	Filing time line.		

Sec. 74-106.	Action by objecting agencies.
Sec. 74-107.	Village board action.
Sec. 74-108.	Time of action.
Sec. 74-109.	Failure of the village board to act.
Sec. 74-110.	Recordation.
Sec. 74-111.	Copies.
Sec. 74-112.	Replat.
Sec. 74-113.	Preparation; compliance required.
Sec. 74-114.	Additional information.
Sec. 74-115.	Surveying and monumenting requirements.
Sec. 74-116.	State plane coordinate system.
Sec. 74-117.	Certificates.
Sec. 74-118.	Covenants.
Sec. 74-119.	Utility amendments during construction to final plat.
Secs. 74-120 –74-140.	Reserved.

#### **Division 4. Certified Survey Maps**

Sec. 74-141.	Preliminary map required.
Sec. 74-142.	Preapplication review.
Sec. 74-143.	Use.
Sec. 74-144.	Recording.
Sec. 74-145.	Action of village board.
Sec. 74-146.	Improvement agreement.
Sec. 74-147.	Final filing time line.
Sec. 74-148.	Required information.
Sec. 74-149.	State plane coordinate system.
Sec. 74-150.	Certificates.
Sec. 74-151.	Recordation.
Secs. 74-152 –74-180.	Reserved.

#### **Article III. Design Standards**

Sec. 74-181.	Street layouts.
Sec. 74-182.	Arterial street arrangement.
Sec. 74-183.	Collector street arrangement.
Sec. 74-184.	Local street arrangement.
Sec. 74-185.	Adjacent properties.
Sec. 74-186.	Reserve strips.
Sec. 74-187.	Alleys.
Sec. 74-188.	Street names.
Sec. 74-189.	Limited access highway and railroad right-of-way treatment.
Sec. 74-190.	Streets, highways and alleys.
Sec. 74-191.	Maximum street grades.
Sec. 74-192.	Culs-de-sac.
Sec. 74-193.	Half streets.
Sec. 74-194.	Temporary termination of streets.
Sec. 74-195.	Roadway elevations in floodplains.
Sec. 74-196.	New and replacement bridges and culverts in floodplains.
Sec. 74-197.	Bicycle routes.
Sec. 74-198.	Street intersections.
Sec. 74-199.	Blocks.
Sec. 74-200.	Lots.

Sec. 74-201.	Easements.
Sec. 74-202.	Public sites and open spaces.
Secs. 74-203-74-230.	Reserved

#### **Article IV. Required Improvements**

Sec. 74-231.	Generally.		
Sec. 74-232.	Construction.		
Sec. 74-233.	Post-construction storm water management.	07-2016	04/25/16
Sec. 74-234.	Construction site erosion.	07-2016	04/25/16
Secs. 74-235-74-260.	Reserved.		

#### **Article V. Fees**

Sec. 74-261.	Purpose.
Sec. 74-262.	Preliminary subdivision plat review.
Sec. 74-263.	Certified survey map review.
Sec. 74-264.	Improvement review and inspection.
Sec. 74-265.	Final plat review.

**ARTICLE I.**  
**IN GENERAL**

**Sec. 74-1. Authority.**

This chapter is adopted under the authority granted by Wis. Stats. ch. 236.  
(Code 1993, § 18.01(1))

**Sec. 74-2. Purpose.**

The purpose of this chapter is to regulate the division of land within the village in order to promote the public health, safety and general welfare; further the orderly layout and use of land; prevent the overcrowding of land; lessen congestion in the streets and highways; provide for adequate light and air; facilitate adequate provision for water, sewerage and other public requirements; provide for proper ingress and egress; and promote proper monumenting of land subdivided and conveyancing by accurate legal description. The approvals to be obtained by the subdivider, as required in this chapter, are based on requirements designed to accomplish such purposes.  
(Code 1993, § 18.01(3))

**Sec. 74-3. Abrogation and greater restrictions.**

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.  
(Code 1993, § 18.01(4))

**Sec. 74-4. Interpretation.**

In the interpretation and application of the provisions of this chapter, such provisions shall be held to be minimum requirements and shall be liberally construed in favor of the village, and shall not be deemed a limitation or repeal of any other power granted by statute.  
(Code 1993, § 18.01(5))

**Sec. 74-5. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agencies, advisory*, means agencies which, for the purpose of this chapter, include the state department of natural resources, village plan commission, stormwater drainage district no. 1, sewer commission, park commission and Southeastern Wisconsin Regional Planning

Commission, affected water, electric or gas utilities or any other agencies able to advise the subdivider or the approving and objecting authorities.

*Alley* means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of the properties of which the principal frontage is a street.

*Authorities, approving*, means:

- (1) The village board; however, if the plat is within an area, the annexation of which is being legally contested, the governing bodies of both the annexing municipality and the village shall approve.
- (2) If the plat is within the extraterritorial plat approval jurisdiction of a municipality:
  - a. The village board.
  - b. The governing body of the municipality if by July 1, 1958, or thereafter if it adopted a subdivision code or an official map.

See also the definition of the terms "Agencies, advisory" and "Authorities, objecting."

*Authorities, objecting*, means the authorities defined in Wis. Stats. ch. 236, which have limited powers to object to a subdivision plat, including the department of development, the department of transportation (for plats that abut or adjoin a state trunk highway or streets that form a connecting link between segments of a state trunk highway) and the department of commerce (to review plats not served by a public sewer according to the rules relating to lot size and elevation necessary for proper sanitary conditions).

*Block* means a tract of land bounded by streets, or a combination of streets, and public parks, cemeteries, railroad rights-of-way, shorelines or waterways, municipal boundary lines, villageship lines or county lines.

*Building* means any structure built, used, designed or intended for the support, shelter, protection or enclosure of persons, animals, chattels or property of any kind and which is permanently affixed to the land.

*Building setback line* means a line parallel to a lot line and at a distance from the lot line to comply with the yard requirements set forth in chapter 90 of this Code.

*Certified survey map* means the division of land by the owner or subdivider, in compliance with the chapter 90 of this Code, resulting in the creation of not more than four parcels or building sites, of any size. (See the definition of the term "Subdivision," for five or more parcels.)

*Comprehensive plan* means an extensively developed plan, also called a master plan, including proposals for future land use, transportation, urban development and public facilities. The village plan was developed jointly with surrounding municipalities, and is known as the Racine Urban District Plan, prepared under Wis. Stats. § 62.23. A seven-county regional plan also exists, and was prepared and adopted by the Southeastern Wisconsin Regional Planning Commission. Devices for the implementation of these plans include zoning ordinances, jurisdictional highway system plans, land division control ordinances and capital improvement programs.

*Dwelling unit* means any room, or group of rooms, forming a single habitable unit, with facilities that are used, or intended to be used, for living, sleeping, cooking and eating.

*Extraterritorial plat approval jurisdictional area* means the unincorporated area within 1 1/2 miles of a fourth class city or village and within three miles of all other cities.

*Floodlands* means lands, including the floodplains, floodways and channels, subject to inundation by the 100 year recurrent interval flood, or where such data is not available, the maximum flood of record. (See studies by the U.S. Soil Conservation Service/Federal Emergency Management Agency and Southeastern Wisconsin Regional Planning Commission.)

*Frontage* means the total dimension of a lot abutting a public street, measured along the street right-of-way line.

*High water elevation* means the average annual high water level of a pond, stream, lake, flowage or wetland, referred to an established datum plan or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation, or other easily recognized topographic, geologic or vegetative characteristic.

*Improvement, public*, means any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, bicycle way, planting strip or other facility for which the local municipality may ultimately assume the responsibility for maintenance and operation.

*Jurisdictional highway system* means a plan showing the level and agency of government assuming responsibility for construction, maintenance and operation of each segment of the total street and highway system within the county.

*Lands, open space*, means lands that are undeveloped or that are not used for buildings or structures, transportation, communication or utility facilities, or any other type of stationary or fixed development, so as to be both physically and psychologically open in relation to other adjacent land uses. Undeveloped woodlands, wetlands, marshes, prairies, wildlife habitat areas, agricultural lands, lakes, rivers, streams and their associated shorelands and floodlands are examples of open space lands. Other types of open space lands include parks, parkways, golf courses and green spaces, such as urban squares or plazas.

*Lot* means a contiguous parcel of land having frontage on a public street or approved access thereto, occupied, or intended to be occupied, by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of chapter 90 of this Code.

*Lot, corner*, means a lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

*Lot, double frontage and reverse frontage*, mean a lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On such lot, both street lines shall be deemed front lot lines, but in the case of two or more continuous lots, there shall be a common front lot line.

*Lot width* means the width of a parcel of land, measured at the rear of a specified street yard or otherwise, as defined in chapter 90 of this Code.

*Mean sea level datum* means the mean sea level datum, 1929 adjustment, as established by the U.S. Coast and Geodetic Survey.

*Municipality, local*, means, for purposes of this chapter only, any form of jurisdictional government, including towns, cities, villages, counties, sanitary sewer district commissions, stormwater commissions, farm drainage districts, etc.

*National map accuracy standards* means standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities. Such standards have been fully reproduced in appendix D of the SEWRPC Technical Report No. 7, Horizontal and Vertical Survey Control in Southeastern Wisconsin.

*Outlot* means a parcel of land, other than a lot or block, designated as such on the plat. The intended use of an outlot shall be specified on the plat.

*Park, community*, means an outdoor recreation site of between ten and 40 acres in size, serving several neighborhoods, and generally containing more open space and natural resource oriented areas than standard neighborhood parks. Recreational activities include baseball and softball, tennis, basketball, picnicking, swimming and various recreational trails. Community parks serve people of all ages and have an effective service radius of between one-half and three miles.

*Park, neighborhood*, means a neighborhood park providing space and facilities primarily for active and intensive recreational activities, such as softball, tennis and basketball. Recreational activities are primarily nonresource oriented and available for all ages within a given neighborhood. An ideal neighborhood park site is scenic, and contains some natural resource areas for passive recreation. A neighborhood park site is usually located a maximum of

one-fourth mile from the primary users thereof. The suggested minimum size of a neighborhood park is one acre.

*Parkway and recreation corridor* mean a network of linear, elongated lands that are primarily natural resource oriented, often being closely associated with the elements of the natural resource base that comprise environmental corridors. A parkway or recreation corridor primarily accommodates trail oriented recreation, such as hiking, nature study, biking, horseback riding, snowmobiling and cross country skiing. Parkways or recreation corridors often function as physical links between existing and proposed parks and open space sites.

*Plat, preliminary*, means a map showing all required information of a proposed subdivision, submitted for purposes of official consideration, as regulated by Wis. Stats. ch. 236 and this chapter. Under this chapter, such a map can also be provided for divisions other than subdivisions.

*Public way* means any sidewalk, street, alley, highway, drainageway or other public thoroughfare.

*Replat* means the process of changing the map or plat, which changes the boundaries of a recorded subdivision plat, or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of such block, lot or outlot is not a replat. (See Wis. Stats. § 236.36.)

*Reserve strip* means a strip of land, also called a spite strip, intended by one private land owner to prevent another land owner access to the street. Such strips are not permitted under this chapter.

*Shorelands* means lands in the unincorporated areas of the county lying within the following distances:

- (1) One thousand feet from the high water elevation of navigable lakes, ponds and flowages; or
- (2) Three hundred feet from the high water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.

*Stream, navigable*, means any stream capable of floating any boat, skiff or canoe of the shallowest draft used for recreational purposes. The final determination shall be made by the department of natural resources.

*Street, arterial*, means a street used, or intended to be used, primarily for through traffic rather than for land access service. (See the county jurisdictional highway plan for further subclassifications of arterials.) Arterials should not ordinarily be residential streets, but do connect residential areas to institutional, retail and employment areas of the community. Arterials normally are continuous routes and must be designed for higher peak hour or average daily motor vehicle traffic volumes.

*Street, collector*, means a street used, or intended to be used, to carry traffic from local streets to the system or arterial highways.

*Street, cul-de-sac*, means a local street closed at one end, with a turnaround provided for vehicular traffic.

*Street, frontage*, means a local street auxiliary to, and located on, the side of an arterial street for access and utility service to the abutting development.

*Street, local*, means a street used, or intended to be used, primarily for access to abutting properties.

*Subdivider* means any person, firm or corporation, or any agent thereof, dividing or proposing to divide land, resulting in a subdivision, certified survey map or replat.

*Subdivision* means the division of a lot, outlot, parcel or tract of land by the owner thereof or his agent for the purpose of transfer of ownership or building development, where the act of division creates five or more parcels or building sites of any size, by successive division within a period of five years. (See the certified survey map for other divisions.)

*Surety bond* means a bond guaranteeing performance of a contract or obligation through forfeiture of the bond if such contract or obligation is unfulfilled by the subdivider.

*Wetlands* means areas in which the water table is at, near or above the existing land surface and are characterized by hydric soils, such as peats, mucks, other organic and mineral soils, and by the growth of hydrophytes, such as sedges, cattails, red osier dogwoods and tamaracks. Wetlands function as nutrient and sediment traps contributing to the maintenance of good water quality and reducing the threat of flooding. Wetlands protect shoreland areas from erosion by absorbing storm impact and diminishing the scouring action of currents. Wetlands also provide essential breeding, nesting, resting, feeding grounds and predator escape cover for many species of fish and wildlife.

*Wisconsin Administrative Code (Wis. Admin. Code)* means the rules of administrative agencies having rule making authority in the state, published in a looseleaf, continual revision system as directed by Wis. Stats. § 35.93 and Wis. Stats. ch. 227, including subsequent amendments to such rules.

*Zoning administrator* means the office designated by the village board to administer this chapter.

(Code 1993, § 18.02; Ord. No. 13-2006, 11-27-2006)

**Cross References:** Definitions generally, § 1-2.

## **Sec. 74-6. Jurisdiction.**

Jurisdiction of the regulations set forth in this chapter shall include all lands and waters within the village. The provisions of this chapter, as it applies to divisions of tracts of land, shall not apply to:

- (1) Transfer of interest in land by will or pursuant to court order.
- (2) Leases for a term not to exceed ten years, mortgages or easements.
- (3) Sale or exchange of parcels of land between owners of adjoining property, if additional lots are not thereby created and the lots resulting are not reduced below the minimum size required by this chapter, the chapter 90 of this Code or other applicable laws or ordinances.
- (4) Cemetery plats made under Wis. Stats. § 157.07.
- (5) Assessors' plats made under Wis. Stats. § 70.27, but such assessors' plats shall comply with Wis. Stats. § 236.15(1)(a)--(g), (2)(a)--(e).

(Code 1993, § 18.03)

**Sec. 74-7. Compliance required.**

No person shall divide any land located within the jurisdictional limits of the regulations set forth in this chapter, which results in a subdivision, certified survey map or replat, and no such subdivision, certified survey map or replat shall be entitled to be recorded, and no street shall be laid out or improvements placed therein without compliance with all requirements of this chapter and the following:

- (1) The provisions of Wis. Stats. ch. 236, which are incorporated into this chapter by reference.
- (2) The rules of the department of commerce, division of health, regulating lot size and lot elevation, if the land to be subdivided is not served by a public sewer and provisions for such service have not been made, or any other agency as designated by the state to enforce the regulations.
- (3) The rules of the department of transportation, division of highways, relating to safety of access and the preservation of the public interest and investment in the highway system, if the land owned or controlled by the subdivider abuts on a state trunk highway or connecting street.
- (4) The rules of the department of natural resources, division of environmental protection, setting water quality standards preventing and abating pollution and regulating development within floodland, wetland and shoreland areas.
- (5) The comprehensive plan, or components of such plans, prepared by state, regional, county or municipal agencies and duly adopted by the village plan commission.

- (6) Village and county ordinances, including zoning, sanitary, building, highway width map and official mapping ordinances.  
(Code 1993, § 18.04)

**Sec. 74-8. Violations; penalties.**

Unless otherwise provided, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 1-15.  
(Code 1993, § 18.25)

**Secs. 74-9--74-40. Reserved.**

**ARTICLE II.**

**ADMINISTRATION AND ENFORCEMENT\***

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\* **Cross References:** Administration, ch. 2.

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**DIVISION 1.**

**GENERALLY**

**Sec. 74-41. Compliance required.**

No person shall divide, convey or record any land in violation of this chapter or Wis. Stats. ch. 236, nor be issued a zoning permit, building permit or sanitary permit authorizing the building on, or improvement of, any lot or any part of any subdivision, certified survey map or replat within the jurisdiction of this chapter, not of record as of the effective date of the ordinance from which this chapter is derived, until the provisions and requirements of this chapter have been fully met.  
(Code 1993, § 18.09)

**Sec. 74-42. Dedication and reservation of lands.**

The following provisions are established in order that adequate public lands and open space sites may be properly located and preserved as the village develops:

- (1) *Donated land.* Pursuant to Wis. Stats. § 236.29, when any plat is certified, signed, acknowledged and recorded as prescribed in such chapter of the statutes, every donation of land to the public intended for streets, alleys, ways, commons or other public uses, as designated on such plat, shall be deemed sufficient conveyance to vest the fee simple title with the public.

- (2) *Reservation for future dedication.* Where it is not practical or desirable, in the judgment of the village, to require the dedication to the public of a road right-of-way, or other site for public use at the time of platting, a reservation may be entered on the plat showing the future location of such a dedication, subject to the following conditions:
- a. The reservation is drawn and described on the plat with the same accuracy as required in this chapter for a dedication and the intended purpose of the reserved area after future dedication is shown (for example, reserved for future dedication to public road purposes).
  - b. Provision is made for the acceptance of the reservation by the village board in the same manner as acceptance of a dedication.
  - c. Financial responsibility for installing required improvements at the time of dedication is established in the reservation acceptance resolution and recorded on the title of affected lots or outlots.
  - d. Authority to unilaterally require conversion of the reservation to a dedication is vested in the village board by the acceptance resolution. With village board approval in the acceptance resolution, such authority may also be vested in any one of the adjacent or underlying owners to the reserved area.
  - e. Setbacks and other yards for building and uses under chapter 90 of this Code treat the reservation as if already dedicated, which treatment shall also be recorded with the titles of affected lots and outlots.
  - f. Vacations of reservations shall be made in the same manner as provided in Wis. Stats. ch. 236.
- (3) *Park sites.* Pursuant to Wis. Stats. § 236.45, this subsection is intended to make provision for public parks in developing neighborhoods where vacant land is being converted to urban uses and to ensure that such provision is in appropriate proportion to the need created by the addition of development and is coordinated with the locational goals of the village's park and land use plans.
- a. *Consistency and approval.* The design and layout of plats shall be consistent with the village's land use, neighborhood, and park and open space plans, with the specific terrain and related use characteristics of the site, park design standards and reasonable public access needs. Upon preliminary approval by the park and planning commissions of the general site plan and prior to approval

of a final plat, a determination shall be made as to the specific method whereby such areas shall be preserved. Public access shall be provided to all navigable streams or lakeshores.

- b. *Village park fee(s).* The subdivider or overlay planned development project sponsor shall pay a park fee of \$1,000.00 for each single-family residential lot and each multifamily residential dwelling unit at time of building permit. The park fee shall not be paid prior to submission of a complete and accurate building permit.
- c. *Acceptance of land in lieu of park fees.* The village has an option to accept a voluntary dedication of land from the developer sufficient for park purposes in lieu of payment of park fees. It shall be within the sole discretion of the village as to whether the developer's request for a voluntary dedication in lieu of park fees is sufficient to meet the intent of this section. In the event the village accepts a voluntary dedication of lands from the developer, subsection (3)b. of this section shall be inapplicable.
- d. *Monies received.* Monies received under subsection (3)b. of this section shall be placed in a separate and segregated nonlapsing village account established for the park service district. For the purposes of this subsection, the term "park service district" includes any park site within the village established for the village to use in the park service district. Such monies shall be used exclusively for site acquisition and/or development of park lands which will serve the village.

(Code 1993, § 18.05; Ord. No. 17-2005, 11-14-2005)

#### **Sec. 74-43. Reservation of lands for public acquisition.**

Where a plat embraces all or part of a site designated for public ownership, and for which the subdivider is not obligated by this chapter or Wis. Stats. ch. 236, to dedicate such lands to the public without compensation, the subdivider shall nevertheless make such lands a part of the plat design, assuming the lands will be purchased by the public, and reserve such lands for public purchase for a period of up to three years from the date of recording of the plat. To allow for the possibility that after the reservation period the public might not acquire the land, the plat design may be such that the reserved lands may be subdivided or otherwise put to a useful private purpose consistent with the layout in the balance of the plat.

(Code 1993, § 18.06)

#### **Sec. 74-44. Improvements.**

Before approval of any final plat, but based on an approved preliminary plat and under village inspection, the subdivider may install street, utility and other public improvements as are

required under Wis. Stats. § 236.13(2)(b) and (c), and section 74-45. However, changes in installed improvements resulting from changes in the final plat by the subdivider from the preliminary plat are responsibilities of the subdivider. If such improvements are not installed, as required at the time that the final plat is submitted for approval, the subdivider shall, before recording the final plat, enter into a contract with the village agreeing to install the required improvements and shall file with such contract a financial surety, satisfactory to the village, as a guarantee that such improvements will be completed by the subdivider or his subcontractors within a reasonable time as agreed in the contract.  
(Code 1993, § 18.07)

#### **Sec. 74-45. Land suitability warning.**

(a) No subdivision or building lot shall be created where the land is held by the village board to be wholly or partially unsuitable for its proposed use until there shall first be placed on the face of the plat a notation to the affected areas that the specified conditions do or may exist, as a warning to all future owners of this lot or nearby lots.

(b) Before applying the provisions of this section, the village board shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for a proposed use and afford the subdivider an opportunity to present evidence regarding such unsuitability, if he so desires. Thereafter, the village board may affirm, modify or withdraw its determination of unsuitability. The following are the only factors which the village board, upon recommendation of the plan commission, may consider under this section:

- (1) *Inadequate drainage of floodlands.* Included within this category may be lands not presently subject to flooding, but which may flood in future years if the drainage basin develops further.
- (2) *Lands made, altered or filled.* Lands made, altered or filled with earth and nonearth materials.
- (3) *Bedrock.* Lands having bedrock within six feet of the natural undisturbed surface.
- (4) *Percolation rate.* Soils having a percolation rate slower than 60 minutes per inch shall be noted where a soil absorption sewage disposal system is contemplated.
- (5) *Soil types.* The following soil types, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service, which have very severe limitations, shall not be divided into building sites having an on-site soil absorption sewage disposal system, unless such division is in conformance with state sanitary regulations:

Soil Name	Map Symbol	Field Sheet Symbol
Adrian	Ac	452-A and B and 453-A and B
Alluvial land	Am, Ww	7W, 10-A, 10-W, 11-A and B and 11W-A and B
Ashkum	AtA	298-A and B, 300-A, 338-A and 398-A
Aztalan	AuA, AzA, AzB	72z, 37z, 38z, 51-A, B and C, 52-B, 53-A and B, 369-A and B, 369-z, 370-A and B, and 371-B
Beecher	BcA	3361-A and B
Blount	BIA	299-A and B
Colwood	Cw	28-A, 29-A and B, 30-A, 48-A and B, 76V-A and B, 80V, 181V, 290-A and 291-A
Conover	CyA	164-A, 178-A and B, 179-C, 188-A and B, 189-B, 278-B and 364-B
Darroch	DaA	26-A and B, 37-A and B, 203V, 250V and 346V
Drummer	Dt	126-A and B, 216Y, 326-A and B, 326Z-A and B and 339-A
Elliott	EtA, EtB	3351-A and B, BM and C
Fabius	FaA	102-A and B, 174-A, B and C, 175-A and B, and 182-A and B
Granby	Gf, Gm, GnA	49-A, 49Y, 66-A, 67-A, 180V-A, 250-A and B, 251-A and B, 386-A and B, and 386Y
Houghton	Ht	450-A and B, 451-A, B and C, and 462-A
Kane	KaA	124-A and B, 332-A and B, and 346-A and B
Lawson	Lp	5-A, 23-A and B, and 54-A and B
Marsh	Mf	4
Martinton	MgA	41-A and B, and 42-A, B and C
Matherton	MkA, MIA	42Y, 87-A and B, 87z, 109Y-A and B, 109-z-A and B, 203-A and B, 203Y-A and B, 203z-A and B, 233-A and B, 233Y-A and B, 233z-A and B, and 234-A, B and C
Montgomery	Mzc	217-A and B, 217Y and 218-A and B
Mundelein	MzfA	27-A and B, 38-A and B, 124V, 233v-A and B, and 332v-A and B
Muskego	Mzg	461-A
Mussey	MzK	176-A and B, 180-A, 181-A, B and C, and 290x
Navan	Na	28z, 29z, 329-A, 330-A and B, 340-A and B, 340z and 386z

Ogden	Oc	456-A and B, and 457-A, B and C
Palms	Pa	454-A and B, and 455
Pella	Ph	63-A, B and C, 212-A and B, 213-A and B, 214-A and B, 215-A, 216-A, 231-A and B, and 232-A
Radford	RaA	328-A and B
Rollin	Rt	228-A and B, 302, 458-A and B, 459-A and 460-A
Sawmill	Sg	5W-A and B
Sebewa	Sm, So	76-A, 76Y-A and B, 76Z-A and B, 80-A, B and C, 80Y, 80Z, 81A and 181Z
Wallkill	Wa	327-A and B
Wasepi	WmA, WnA	352, 59-A and B, 59Z-A and B, 60-A and B, 60Z, 77-A and B, 78-A, 250Y, 250Z-A and B, 251Y, and 215Z-A and B
Yahara	YaA	35-A and B, 36-A and B, 45-A, 46-A and B, and 263

- a. *Land drained.* Land drained by farm drainage title or farm ditch systems, unless an alternate drainage improvement is planned to serve the area.
- b. *Groundwater.* Lands having evidence of groundwater within six feet of the surface.

(Code 1993, § 18.08)

#### **Sec. 74-46. Variances.**

(a) The village board may waive or modify the requirements of this chapter, to the extent deemed just and proper, where, in the judgment of the village board, it would be inappropriate to literally apply the provisions of this chapter.

(b) When such relief is granted, it shall be without detriment to the public good and without impairing the intent and purpose of this chapter or of adopted village plans. A simple majority vote of the entire village board membership present and voting shall be required to grant any modifications to the provisions of this chapter and the reasons for such decision shall be entered into the minutes of the meeting.

(Code 1993, § 18.10)

#### **Sec. 74-47. Appeals.**

Any person aggrieved by an objection to a plat or a failure to approve a plat may first appeal from such decision to the village board, if the village is involved, following the provisions of Wis. Stats. ch. 68. If such appeal is not granted or, if the objection or failure to approve is from some other authority, the persons aggrieved may appeal from such rejection as provided in Wis. Stats. § 62.23(7)(e)10--15 and Wis. Stats. § 236.13(5), to the court of record, within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied

objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting authorities is arbitrary, unreasonable or discriminatory.  
(Code 1993, § 18.11)

**Secs. 74-48--74-70. Reserved.**

## **DIVISION 2.**

### **PRELIMINARY PLATS**

#### **Sec. 74-71. Required.**

A preliminary plat shall be filed and approved prior to filing a final subdivision plat. All subdivision plats shall be served by municipal sanitary sewer and water prior to the acceptance of public roads and/or building permits.  
(Code 1993, § 18.12(1); Ord. No. 13-2006, 11-27-2006)

#### **Sec. 74-72. Preapplication consultation.**

Prior to the filing of an application for approval of a preliminary plat or certified survey map, it is recommended that the subdivider consult with all affected utilities, the village zoning administrator or plan commission and the county planning and zoning department in order to obtain advice and assistance. Such consultation is not formal, but is intended to inform the subdivider of the purpose and objectives of the regulations of this chapter, the adopted regional, county or village comprehensive plans and other relevant ordinances, and to otherwise assist the subdivider in planning his development. In so doing, both the subdivider and the village may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and village, and the subdivider will gain a better understanding of the subsequent required procedures.  
(Code 1993, § 18.12(2))

#### **Sec. 74-73. Approval.**

(a) Prior to submitting a final plat for approval, the subdivider shall submit, for approval, a preliminary plat, accompanied by a letter of application. The preliminary plat shall be prepared in accordance with this chapter and the subdivider shall file at least 15 copies of the plat and the cover letter with the county planning and zoning department, along with the proper receipt of payment of the fees in accordance with article V of this chapter. The planning and zoning department, acting as a clearinghouse for approving and objecting authorities, shall, within two work days after filing, submit, with a cover letter and the letter of application, four copies to the county land use committee; two copies to the director of planning functions of the state department of development; two additional copies to the director of planning functions for retransmission to the state department of transportation, if the subdivision abuts or adjoins a state trunk highway or connecting street, the state department of commerce, if a subdivision is not

served by a public sewer and provision for such service has not been made; six copies to the clerk-treasurer; six copies to the clerk of each adjoining city or village, if the subdivision lies within the extraterritorial plat approval jurisdiction of such city or village; and one copy to the school board with jurisdiction. Additional copies may be required by approving and objecting agencies.

(b) In accordance with Wis. Stats. § 236.10, approving agencies are the village board, the county land use committee and each adjoining city or village in whose extraterritorial plat approval jurisdiction the subdivision lies.

(c) The state department of development, state department of transportation and state department of commerce shall be referred to in this division as the "objecting agencies."

(d) Upon receipt from the county of the preliminary plat copies and application, the clerk-treasurer shall immediately transmit the materials to the zoning administrator, who shall immediately refer the plat to the village plan commission and other appropriate commissions and staff for review and recommendation.

(e) The zoning administrator, in transmitting a copy of the preliminary plat to all affected village commissions or departments for their review and recommendations concerning matters within their jurisdiction, shall specify a time limit in which they must respond. Such time limit shall ensure that the plan commission can make a recommendation encompassing its own and all other recommendations to the village board so the village board can act within 65 days of the date of the original filing of the plat with the county clearinghouse. The plan commission shall have principal responsibility for review of the plat for its conformance to this chapter and to all related ordinances, rules and adopted comprehensive plans.

(f) Within 20 days of the date of receiving their copies of the preliminary plat, the objecting agencies shall notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, such agencies shall so certify on the face of the copy of the plat and shall return that copy to the village.

(g) If any objecting agency fails to act within 20 days, it shall be deemed to have no objections to the plat.

(h) The village board shall approve, approve conditionally or reject such plat within 65 days of the date of filing a preliminary plat with the county planning and zoning department, unless the time is extended by agreement with the subdivider. One copy of the plat shall thereupon be returned to the subdivider, with the date and action endorsed thereon and, if approved conditionally or rejected, a letter setting forth the conditions of approval or the detailed reasons for rejections shall accompany the plat. Reasons of rejections shall be clear enough to direct the subdivider how a new plat can receive approval. Copies of the village's action shall also be filed with the county.

(i) Failure of the village board to act within 65 days of the date of filing, or within the time extended by agreement with the subdivider, shall constitute an approval.

(j) Where a plat is approved conditionally, which conditions call for layout changes, the subdivider shall provide the county planning and zoning department with corrected copies of the preliminary plat for county distribution to each approving and objecting authority for their files and possible further comment.

(k) If the approving authorities shall approve a preliminary plat subject to certain conditions, and such conditions shall not be identical, then the more restrictive conditions shall apply. If the subdivider or any one of the approving authorities shall deem it unclear as to which conditions apply, the subdivider or the approving authority may request a joint meeting of the subdivider and the other approving authorities for the purpose of clarifying or, if need be, amending the conditions so as to clarify the applicable conditions.

(l) Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that, if the final plat is submitted within two years of preliminary plat approval and conforms substantially to the preliminary plat layout, as provided under Wis. Stats. § 236.11(1)(b), the final plat shall be entitled to approval with respect to such layout.

(Code 1993, § 18.12(3))

#### **Sec. 74-74. Required information.**

A preliminary plat shall be based upon a survey by a registered land surveyor and prepared on tracing cloth or paper, of good quality, at a scale of not more than 100 feet to the inch, and shall correctly show the following information on the face of such plat:

- (1) Title under which the proposed subdivision is to be recorded.
- (2) Location of the proposed subdivision by government lot, quarter section, section, township, range, county and state.
- (3) Date, graphic scale and north point.
- (4) Names and addresses of the owner, subdivider and land surveyor preparing the plat.
- (5) Entire area contiguous to the proposed plat which is owned or controlled by the subdivider, even if only a portion of such area is proposed for immediate development. The village plan commission may waive this requirement where it is unnecessary to fulfill the purpose and intent of this chapter and undue hardship would result from strict application thereof.
- (6) Length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.

- (7) Location of all existing property boundary lines, structures, drives, streams and watercourses, wetlands, rock outcrops, wooded areas, railroad tracks, bridges and other similar significant features within the tract being subdivided or immediately adjacent thereto.
- (8) Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way, and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
- (9) Location and name of any adjacent subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.
- (10) Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations, all referenced to mean sea level datum.
- (11) Location, size and invert elevations of existing sanitary or storm sewers, culverts and drain pipes; the locations of manholes, catchbasins, hydrants, electric and communication facilities, whether overhead or underground; and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on, or immediately adjacent to, the tract, the nearest such sewers or water mains which shall be extended to serve the tract shall be indicated by their direction and distance from the tract, size and invert elevations.
- (12) Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto.
- (13) Existing zoning on, and adjacent to, the proposed subdivision.
- (14) Existing contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards, based upon mean sea level datum, at vertical intervals of not more than two feet. At least two permanent benchmarks shall be located in the immediate vicinity of the plat, together with their elevations, referenced to mean sea level datum and the monumentation of the benchmarks clearly and completely described. The one inch equals 200 feet scale topographic maps for the county may be used as a source of information.
- (15) High water elevations of all ponds, streams, lakes flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom, referenced to mean sea level datum.

- (16) Water elevations of all streams, ponds, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom at the date of the survey, based on mean sea level datum.
- (17) Floodland and shoreland boundaries and the contour lines lying a vertical distance of two feet above the elevation of the 100-year recurrence interval flood or, where such data is not available, five feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or located within 100 feet therefrom.
- (18) Soil types and their boundaries within the exterior boundaries of the plat, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.
- (19) Locations, widths and names of all proposed streets and public rights-of-way, such as alleys and easements.
- (20) Approximate dimensions and areas of all lots, together with proposed lot and block numbers.
- (21) Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or public use, or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring platting.
- (22) Approximate radii of all curves.
- (23) Any proposed land or stream access, with a small drawing clearly indicating the location of the proposed subdivision in relation to such access.
- (24) Any proposed navigable lake and stream improvement or relocation, and notice of application for approval by the division of environmental protection of the state department of natural resources, when applicable.
- (25) Any additional information required by the village zoning administrator, village engineer or village board.

(Code 1993, § 18.12(4), (5); Ord. No. 13-2006, 11-27-2006)

#### **Sec. 74-75. Protective covenants.**

The zoning administrator may receive, and keep on file for reference, a draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development, including solar access.

(Code 1993, § 18.12(6))

**Sec. 74-76. Affidavit.**

The surveyor preparing the preliminary plat shall certify, on the face of the plat, that it is a correct representation of all existing land divisions and features, and that he has fully complied with the provisions of this chapter.  
(Code 1993, § 18.12(7))

**Secs. 74-77--74-100. Reserved.****DIVISION 3.****FINAL PLATS****Sec. 74-101. Approval and recording.**

The approval and recording of a final plat shall take place before the subdivision of any land, and shall be in conformance with the preliminary plat and include an agreement on necessary improvements. All subdivision plats shall be served by municipal sanitary sewer and water prior to acceptance of public roads and/or building permits.  
(Code 1993, § 18.13(intro. ¶); Ord. No. 13-2006, 11-27-2006)

**Sec. 74-102. State review.**

(a) The subdivider or his agent shall submit the original plat, before any other approvals of the final plat are made, to the director of the planning function of the state department of development, who shall forward copies to the state department of transportation, if the subdivision abuts or adjoins a state trunk highway or a connecting street, and to the state department of commerce, if the subdivision is not served by a public sewer and provision for such service has not been made.

(b) After approval by the director of the planning function and the other state departments, the subdivider shall file at least 15 copies of the final plat and a cover letter with the county planning and zoning department, along with the proper fees in accordance with article V of this chapter. The planning and zoning department, acting in a clearinghouse function, shall, within two working days after such filing, with a cover letter and letter of application, transmit four copies of the final plat to the county land use committee; four copies to the clerk-treasurer; six copies to the clerk of each adjoining city or village, if the subdivision lies within the extraterritorial plat approval jurisdiction of such city or village; and one copy to the school board with jurisdiction. The subdivider shall supply additional copies, if requested by approving or objecting agencies.

(c) The clerk-treasurer shall immediately refer the plat to the zoning administrator, who shall refer the plat to the same departments and agencies who acted on the preliminary plat.  
(Code 1993, § 18.13(3))

**Sec. 74-103. Approving authorities.**

The village board, the county land use committee and each adjoining city or village in which the extraterritorial plat approval jurisdiction the subdivision lies are designated approving authorities.

(Code 1993, § 18.13(2))

**Sec. 74-104. Objecting agencies.**

The state department of development and state department of commerce shall be referred to in this division as the "objecting agencies." The state department of natural resources may be an advising agency where shorelands are involved.

(Code 1993, § 18.13(3))

**Sec. 74-105. Filing time line.**

If the final plat is not submitted within two years of the date of approval of the preliminary plat, the approving authorities may refuse to approve the plat for cause. Extensions may be granted upon mutual agreement of all approving authorities. The final plat may, if permitted by the village board, constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time. Approval of a final plat for only a portion of the preliminary plat shall extend approval for the remaining portion of the preliminary plat for two years from the date of such final approval.

(Code 1993, § 18.13(4))

**Sec. 74-106. Action by objecting agencies.**

Within 20 days of the date of receiving their copies of the final plat, the objecting agencies shall notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to county, which shall notify the village. If an objecting agency fails to act within 20 days, it shall be deemed to have no objections to the plat.

(Code 1993, § 18.13(5))

**Sec. 74-107. Village board action.**

Upon recommendation of the departments and agencies who reviewed the preliminary plat, the village board shall examine the final plat as to its conformance with the approved preliminary plat and conditions of approval of the preliminary plat, this chapter and all related ordinances, rules or regulations. If the final plat substantially conforms to the preliminary plat as approved, including any conditions of such approval, it is entitled to approval.

(Code 1993, § 18.13(6))

**Sec. 74-108. Time of action.**

Within 40 days of the date of filing of the final plat, the village plan commission and all other departments and agencies shall recommend approval or rejection of the plat and shall transmit the final plat, along with their recommendations, to the village board. Within 60 days of the date of filing the original plat, the village board shall approve or reject such plat, unless the time is extended by agreement with the subdivision. If the plat is rejected, the reasons for such rejection shall be clearly stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivision and surveyor. Such statement shall specify what corrections would result in approval.

(Code 1993, § 18.13(7))

**Sec. 74-109. Failure of the village board to act.**

If the village board fails to act within 60 days, assuming the time has not been extended and no unsatisfied objections have been filed, the plat shall be approved.

(Code 1993, § 18.13(8))

**Sec. 74-110. Recordation.**

After the final plat has been approved by the village board and improvements, as required by the village, have been installed or a contract agreed and sureties insuring their installation are filed, the clerk-treasurer shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the county register of deeds. The register of deeds cannot record the plat unless it is offered within 30 days from date of last approval or six months from first approval. The subdivider shall notify the county, which shall notify all approving agencies, if the plat is not recorded within six months from first approval.

(Code 1993, § 18.13(9))

**Sec. 74-111. Copies.**

The subdivider shall file ten copies of the final plat, as recorded with the planning and zoning department, for distribution to the clerk-treasurer, county treasurer, county highway commissioner, county surveyor, county zoning administrator and other affected agencies for their files.

(Code 1993, § 18.13(10))

**Sec. 74-112. Replat.**

When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Wis. Stats. §§ 236.40--236.44. The subdivider or person wishing to replat shall then proceed as specified in sections 74-7 and 74-42.

(Code 1993, § 18.13(11))

**Sec. 74-113. Preparation; compliance required.**

A final plat prepared by a registered land surveyor shall be required for all subdivisions. Such plat shall comply in all respects with the requirements of Wis. Stats. § 236.20, and the provisions of this chapter.  
(Code 1993, § 18.13(12))

**Sec. 74-114. Additional information.**

In addition to the information required in Wis. Stats. § 236.20, the final plat shall correctly show the following information on its face:

- (1) Exact street width along the line of any obliquely intersecting street.
- (2) Railroad rights-of-way within, and abutting, the plat.
- (3) Additional setback lines or yards required by the subdivider, which are more restrictive than the zoning district in which the plat is located, are to be included in recorded covenants.
- (4) Reserved.
- (5) Floodland and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the 100-year recurrent interval flood or, where such data is not available, five feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or located within 100 feet therefrom.
- (6) All lands reserved for future public acquisition, dedication or the common use of property owners within the plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat.
- (7) Special restrictions required by the village board and any other approving or objecting agency relating to access control along public ways, the provision of planting strips or the treatment of shorelands and floodlands.
- (8) Any other necessary information required by the village to correct or clarify the plat.

(Code 1993, § 18.13(13); Ord. No. 13-2006, 11-27-2006)

**Sec. 74-115. Surveying and monumenting requirements.**

All final plats shall meet all of the surveying and monumenting requirements of Wis. Stats. § 236.15.  
(Code 1993, § 18.13(14))

**Sec. 74-116. State plane coordinate system.**

Where the plat is located within a quarter section, the corners of which have been relocated, monumented and placed on the state plan coordinate system by the Southeastern Wisconsin Regional Planning Commission or the county, the plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. All distances and bearings shall be referred to the state plane coordinate system. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure specified in this article for the survey of the exterior boundaries of the subdivision.  
(Code 1993, § 18.13(15))

**Sec. 74-117. Certificates.**

All final plats shall provide all the certificates required by Wis. Stats. § 236.21, and, in addition, the surveyor shall certify that he has fully complied with all provisions of this chapter.  
(Code 1993, § 18.13(16))

**Sec. 74-118. Covenants.**

The zoning administrator may receive copies for reference of any protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development, including solar access covenants.  
(Code 1993, § 18.13(17))

**Sec. 74-119. Utility amendments during construction to final plat.**

Following recordation of the final plat and prior to the village accepting reservations for roadways, etc., the village administrator or his designee may allow minor adjustments of the placement of utilities within platted easements. Said minor adjustments to the final plat must be accompanied by a proper fully executed affidavit of correction by the developer within seven days of any approval by the administrator or his designee at any minor adjustment to said plat. After review by the village administrator or his designee, the developer shall record the affidavit of correction and demonstrate proof thereof to the village within seven days of the administrator or designee's review and approval. The village administrator or his designee may not in conjunction with any amendment to a final plat during construction amend or change any lot including outlots in size or configuration. The village may withhold approval and acceptance of roadways until the developer fully complies with proper affidavits of correction delineating any amendments made pursuant to this section.  
(Ord. No. 12-2005, 6-27-2005)

**Secs. 74-120--74-140. Reserved.**

## **DIVISION 4.**

### **CERTIFIED SURVEY MAPS**

#### **Sec. 74-141. Preliminary map required.**

Prior to the filing of a final certified survey map, a preliminary map shall be filed and approved. Such map shall show the information listed in section 74-148, and include a letter of application. All certified survey maps shall be served by municipal sanitary sewer and water if such infrastructure is within 350 feet of the parent property being subdivided. The 350 feet shall be measured from the closest distance to the existing municipal sanitary sewer and water, not property lines.

(Code 1993, § 18.14(1); Ord. No. 13-2006, 11-27-2006)

#### **Sec. 74-142. Preapplication review.**

Prior to the filing of a preliminary certified survey map, it is recommended that a preapplication review be conducted in conformance with chapter 74-72.

(Code 1993, § 18.14(2))

#### **Sec. 74-143. Use.**

Lands to be divided which do not constitute a subdivision are regulated by this division and include the division of land into not more than four parcels or building sites, any one of which is 35 acres or less in size, or when it is proposed to divide a block, lot or outlot within a recorded subdivision plat into not more than four parcels or building sites without changing the boundaries of such block, lot or outlot, the subdivider shall divide by use of a certified survey map. The certified survey map shall include all parcels of land 35 acres or less in size and may, at the owner's discretion, include any other parcels containing more than 35 acres. The subdivider shall prepare the certified survey map in accordance with section 74-148 and shall file six copies of the map and a letter of application with the county planning and zoning department with the appropriate receipts of fees from the village.

(Code 1993, § 18.14(3))

#### **Sec. 74-144. Recording.**

All certified survey maps shall be recorded pursuant to Wis. Stats. § 236.34, as amended.

(Code 1993, § 18.14(4))

#### **Sec. 74-145. Action of village board.**

Within 30 days from the date of filing of the certified survey map, the village board shall recommend approval, conditional approval or rejection of the map. If the map is rejected, the reason for such rejection shall be stated in the minutes of the meeting and a clear written statement forwarded to the subdivider indicating what must be done to gain approval. If the map

is approved, the village board shall cause the clerk-treasurer to certify such approval on the face of the original map and return the original map to the subdivider.  
(Code 1993, § 18.14(5))

**Sec. 74-146. Improvement agreement.**

All improvement requirements specified for a final subdivision plat, or the execution of an agreement and financial surety for such plat, shall be met for a certified survey map as part of the approval process.  
(Code 1993, § 18.14(6))

**Sec. 74-147. Final filing time line.**

Where a preliminary certified survey map has been approved, all the provisions regarding the length of time to file a final subdivision plat in conformance to such preliminary plat in this chapter shall apply as well to this division; however, the village board may waive the requirement of a separate preliminary certified survey map submittal and allow simultaneous filing of the preliminary and final maps in uncomplicated cases where a preliminary approval serves no useful purpose. A final certified survey map, in conformance to an approved preliminary certified survey map, is entitled to approval under the same terms as applied by this chapter to final subdivision plats.  
(Code 1993, § 18.14(7))

**Sec. 74-148. Required information.**

A map prepared by a land surveyor registered in the state shall be required for all certified surveys. Such map shall comply in all respects with the requirements of Wis. Stats. § 236.34. The certified survey shall also comply with the design standards set forth in section 74-44 and with the improvement requirements set forth in section 74-45. In addition to the information required by Wis. Stats. § 236.34, the final map shall correctly show the following on its face:

- (1) Date of map.
- (2) Graphic scale, location map and north point.
- (3) Name and address of the owner, subdivider and surveyor.
- (4) All existing buildings, watercourses, drainage ditches and other features pertinent to proper division, including topography, if the land is undeveloped.
- (5) Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.

- (6) Additional building setback lines or yards required by the subdivider, which are more restrictive than the zoning district in which the plat is located and are to be included in the recorded covenants.
- (7) Locations and results of percolation and soil boring tests on all maps to be served by on-site sanitary systems in cases where municipal sanitary sewer mains are more than 350 feet from the parent property being subdivided. The 350 feet shall be measured from the closest distance to the existing municipal sanitary sewer and water, not property boundaries. Such tests shall be conducted in accordance with Wis. Admin. Code. ch. Comm. 85, and be taken at the location and depth at which the soil absorption waste disposal system is to be installed. The results of such tests shall be submitted on an accompanying document.
- (8) All lands reserved for future public acquisition or dedication.
- (9) Floodland and shoreland boundaries and the contour line lying at a vertical distance of two feet above the elevation of the 100-year recurrent interval flood or, where such data is not available, five feet above the elevation of the maximum flood of record within the exterior boundaries of the map or located within 100 feet therefrom.
- (10) Any additional information required by the approving authorities.  
(Code 1993, § 18.14(8); Ord. No. 13-2006, 11-27-2006)

**Sec. 74-149. State plane coordinate system.**

Where the certificate survey map is located within a quarter section, the corners of which have been relocated, monumented and placed on the state plane coordinate system by the Southeastern Wisconsin Regional Planning Commission or the county, the map shall be tied directly to one of the section or quarter corners so coordinated. The exact grid bearings and distance of such tie shall be determined by field measurements, and the material and state plane coordinates of the monument marking the section of the quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the state plane coordinate system.  
(Code 1993, § 18.14(9))

**Sec. 74-150. Certificates.**

The final certified survey map shall provide all of the certificates required of Wis. Stats. §§ 236.34 and 236.21, and, in addition, the surveyor shall certify that he has fully complied with this chapter.  
(Code 1993, § 18.14(10))

#### **Sec. 74-151. Recordation.**

The certified survey map shall only be recorded with the county register of deeds after certificates of the approving authorities, the surveyor and all other required certificates accompany the map. The register of deeds shall record the certified survey in accordance with Wis. Stats. § 236.34(2). The subdivider shall furnish the certificate of recordation and copies of the certified survey map as recorded to all approving authorities within 30 days after recording. (Code 1993, § 18.14(11))

#### **Secs. 74-152--74-180. Reserved.**

### **ARTICLE III.**

#### **DESIGN STANDARDS**

#### **Sec. 74-181. Street layouts.**

In any new subdivision, the street layouts shall take into account the arrangement, width and location indicated on the county jurisdictional highway system plan, official width map and comprehensive plan or component neighborhood plan, if any, of the village or county. In areas for which detailed neighborhood plans have not been completed, the street layout shall conform to the functional classification of the various types of streets, and shall be developed and located in proper relationship to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to further the public convenience and safety, to the proposed use of the land to be served by such streets, to existing or planned utilities and to the most advantageous development of adjoining areas. The subdivision shall be designed so as to provide each lot with satisfactory access to a public street or approved way.  
(Code 1993, § 18.15(1))

**Cross References:** Streets, sidewalks and other public places, ch. 70.

#### **Sec. 74-182. Arterial street arrangement.**

Arterial streets shall be platted with greater right-of-way widths and built with flatter vertical curvature to accommodate their planned heavier traffic volumes, including possible transit service; be properly integrated and continuous with the existing and proposed system of arterials; and often will be restricted as to the location and amount of direct access to be provided to adjacent lands. In order to protect the traffic-carrying capacity and safety of arterials, and to provide some shielding of adjacent residential uses from the adverse impacts of arterial traffic, whenever the proposed land division contains, or is adjacent to, an arterial highway or major collector street, design of the street and lot layout shall take the following into account:

- (1) In the case of nonresidential land uses, the proliferation of many high volume access points shall be discouraged in favor of fewer planned openings that are shared or that provide service through an internal street system.

- (2) In the case of residential land uses with high vehicle density, the minimum access for nonresidential uses shall be observed or use made of the reversed frontage access approach, both with consideration for screening of the uses from arterial traffic impact.
- (3) In the case of residential uses with lower vehicle densities, direct access to the arterials shall be limited to the lowest density residences with encouragement of deeper lots and greater setbacks, and all other residential uses shall be arranged on internal streets or ways, including reversed frontage shielded toward the arterial by a screening area consisting of earth mounds or plantings. The width of side lots and the depth of reversed lots with such screening shall be adequate to accommodate a screening area no less than 20 feet in width.

(Code 1993, § 18.15(2))

#### **Sec. 74-183. Collector street arrangement.**

Collector streets may be platted with a width somewhat greater than the local streets they serve and a somewhat flatter gradient, in order to convey the traffic from residential areas to the arterial street and highway system, and to accommodate possible transit routes or bicycle/pedestrian paths. Collector streets may also contain along their routes neighborhood or subcommunity retail, school or other institutional facilities. Although access is usually not restricted between a collector street and any abutting parcels, when the amount of traffic volume is expected to be sufficiently high, residential uses desirably should take their primary access from the feeder local streets rather than from the collector streets. Collector streets should also be positioned with respect to topography to permit an efficient design for storm and sanitary sewers. (Code 1993, § 18.15(3))

#### **Sec. 74-184. Local street arrangement.**

Local streets are primarily for the purpose of providing access to property and should, therefore, be designed to avoid, as much as possible, any through traffic or any fast movement of vehicles. The emphasis should instead be on the safety of pedestrians and bicyclists, fitting the local street and lot pattern to topography to achieve good building sites and to permit efficient water, storm and sanitary utility service. Achieving such criteria will involve emphasis on shorter streets and avoiding excessive widths or straightness, both of which can contribute to high speeds and accidents. Three subcategories of local streets are as follows:

- (1) *Subcollector.* A subdivision street having limited through traffic, usually only the amount originating or destined within that subdivision. In order to both keep the limited through traffic at slower speeds and to provide an aesthetically pleasing and functional placement for building sites, the rights-of-way should be gently curving, avoiding straightness. Rights-of-way and paving width for subcollectors shall be sufficient to accommodate their subsidiary role of handling limited through traffic; however, the width shall still be less than for collector streets in recognition of the

dominant purpose of access to parcels and the need for pedestrian and bicycle safety.

- (2) *Lane.* Serving somewhat less traffic than the subcollector, being either a longer cul-de-sac or loop street, or providing access to a series of short places branching off the lane. Rights-of-way and pavement widths should be kept limited, consistent with providing space for underground utility needs and expected on-street parking or snow storage, rather than traffic volume.
- (3) *Place, court and circle.* A short dead-end street, such as a cul-de-sac or loop street, where the total volume of traffic will be quite low, both because of the limited number of traffic generating parcels on the street and the total absence of through traffic. The rights-of-way and paving widths can be the least of any of the local streets, with such requirements set more by the expected amount of on-street parking and snow storage space, or the need for underground utilities or vehicle turnaround space, rather than traffic volume.

(Code 1993, § 18.15(4))

#### **Sec. 74-185. Adjacent properties.**

Proposed streets intended to serve or extend to the boundary lines of the tract being subdivided shall normally be extended as part of platting, unless such extension is prevented by topography or other physical conditions, or unless the approving authorities find that such extension is not necessary or desirable for the coordination of the layout of the subdivision or the advantageous development of the adjacent tracts.

(Code 1993, § 18.15(5))

#### **Sec. 74-186. Reserve strips.**

Reserve strips (spite strips) shall not be permitted on any plat to prohibit access to streets, alleys or other public property.

(Code 1993, § 18.15(6))

#### **Sec. 74-187. Alleys.**

Alleys may be provided in all subdivisions for off-street loading and service access, subject to approval of the approving authorities. Dead-end alleys shall be provided with an adequate turnaround. Alleys shall not normally connect to an arterial street or highway.

(Code 1993, § 18.15(7))

**Cross References:** Streets, sidewalks and other public places, ch. 70.

#### **Sec. 74-188. Street names.**

Proposed streets which are in alignment with, or join, an existing and named street, shall normally bear the name of the existing street. Names of new streets shall not duplicate or be

similar to existing street names. The use of the suffix "street," "avenue," "boulevard," "drive," "place," "court" or a similar description shall not be a sufficient distinction to constitute compliance with this subsection. All proposed street names shall be approved by the plan commission.

(Code 1993, § 18.15(8))

**Cross References:** Streets, sidewalks and other public places, ch. 70.

#### **Sec. 74-189. Limited access highway and railroad right-of-way treatment.**

Whenever a proposed subdivision contains, or is adjacent to, a railroad right-of-way or limited access highway (a highway where right-of-access has been purchased by a unit of government or restricted as provided by Wis. Stats. ch. 84), the design shall provide the following treatment:

- (1) When residential lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway or railroad, a planting strip at least 30 feet in depth shall be provided adjacent to the highway or railroad, in addition to the normal lot depth. The strip shall be a part of the platted lots, but shall have the following restriction lettered on the face of the plat:

"This strip is reserved for the planting of trees and shrubs, and the building of all structures on this strip, except public or private utility structures, is prohibited."

- (2) On each side of the limited access highway or railroad right-of-way, business and industrial districts shall have frontage roads adjacent to the right-of-way, or streets approximately parallel to, and at a suitable distance from, such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 200 feet from such street or railroad.
- (3) Streets parallel to a limited access highway or railroad right-of-way, when intersecting an arterial street, highway or collector street which crosses such railroad or limited access highway, shall normally be located at a minimum distance of 200 feet from such railroad right-of-way or limited access highway. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for further separation of grades by means of appropriate approach gradients.

(Code 1993, § 18.15(9))

#### **Sec. 74-190. Streets, highways and alleys.**

All proposed streets, highways and alleys shall conform to the minimum right-of-way width as specified by chapter 70 of this Code, the county jurisdictional highway system plan, the comprehensive plan, comprehensive plan component, neighborhood development plan or the official county highway width map. Design of the streets for a proposed subdivision should be

such that every parcel is provided with adequate access to a public right-of-way or approved way. The location and design of such streets shall consider their relationship to existing and planned streets, topographic conditions, natural features, public convenience and safety.

- (1) *Urban and rural arterial streets.* Urban and rural arterial streets shall be designed in accordance with standard engineering practices, based on state and/or county criteria. The minimum right-of-way to be dedicated shall be as shown in the county jurisdictional highway system plan. Adequate site distances for safe stopping, as recommended by the county highway department, should be provided on both vertical and horizontal curves. Alignment between control points should be as high a standard as is commensurate with topography, terrain, design traffic and the reasonable obtainable right-of-way.
- (2) *Minimum centerline radius of curves.* When a continuous street centerline deflects at any one point by more than five degrees, a horizontal curve shall be introduced, having a radius of curvature on such centerline of 300 feet plus (arterials), and 150 feet plus (collector or less). Reverse curves shall be separated by a tangent section of at least 200 feet (arterials) and 100 feet (collectors/locals). Adjustment in superelevation design runoff may be needed for smooth riding, surface drainage and good appearance.

(Code 1993, § 18.15(10))

#### **Sec. 74-191. Maximum street grades.**

(a) Unless necessitated by exceptional topography, the maximum street grade shall be five to 12 percent for pedestrian ways, ten percent for alleys, eight to ten percent for local streets, eight percent for collectors and six percent for arterials. The grade of any street shall in no case be less than one-half of one percent.

(b) Street grades shall be established, wherever practicable, so as to avoid excessive grading, the unnecessary removal of ground cover and tree growth, and the general leveling of the topography.

(c) All changes on street grades shall be connected by vertical curves of sufficient length to provide adequate stopping sight distance over the vertical curve. As an absolute minimum, a length equivalent in feet to 30 times the algebraic difference in the rates of grade for collector streets and one-half this minimum for all local streets shall be used.

(Code 1993, § 18.15(11))

#### **Sec. 74-192. Culs-de-sac.**

(a) Streets designed to have one end permanently closed shall terminate in a circular turnaround as prescribed by chapter 70 of this Code.

(b) Culs-de-sac in residential developments shall normally be designed to accommodate a maximum of 64 residential units or 800 feet, whichever is more restrictive.

(c) Culs-de-sac in commercial and/or industrial developments should be adequately designed to provide sufficient turnaround area for the type of vehicles expected to be making deliveries and/or pickups to the business or industries located on the culs-de-sac.  
(Code 1993, § 18.15(12))

#### **Sec. 74-193. Half streets.**

Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street shall be dedicated to the village. The platting of half streets should be avoided, wherever possible.  
(Code 1993, § 18.15(13))

#### **Sec. 74-194. Temporary termination of streets.**

Temporary termination of streets at the boundary of a subdivision intended to be extended at a later date, and where five or more dwelling units have driveway access to such streets, or when the distance from the nearest intersection to the boundary of the subdivision is greater than 140 feet, shall be accomplished with a temporary cul-de-sac in accordance with the standards set forth in section 74-192, or by the construction of a temporary T turnaround within the street right-of-way as prescribed by chapter 70 of this Code.  
(Code 1993, § 18.15(14))

#### **Sec. 74-195. Roadway elevations in floodplains.**

Elevations of roadways passing through floodplain areas shall be designed in the following manner:

- (1) Freeways shall be designed so they will not be overtopped by the 100-year recurrent interval flood.
- (2) Arterial highways shall be designed so they will not be overtopped by the 50-year recurrent interval flood.
- (3) Collectors and local streets shall be designed so they will not be overtopped by the 100-year recurrent interval flood.

(Code 1993, § 18.15(15))

#### **Sec. 74-196. New and replacement bridges and culverts in floodplains.**

(a) All new and replacement bridges and culverts over perennial waterways, including pedestrian and other minor bridges, in addition to meeting other applicable requirements, shall be designed so as to accommodate the 100-year recurrent interval flood event, without raising the peak stage, either upstream or downstream, more than 0.1 foot above

the peak stage for the 100-year recurrent interval flood, as established in the adopted Federal Emergency Management Agency's Flood Insurance Study (October 1981). However, larger permissible flood stage increases may be acceptable for reaches having topographic land use conditions which could accommodate the increased stage without creating additional flood damage potential upstream or downstream of the proposed structure. Such bridges and culverts shall be designed and constructed so as to facilitate the passage of ice floes and other debris.

(b) All new and replacement bridges shall be constructed in accordance with all applicable statutes and codes, and may be submitted to the department of natural resources for its advice.

(Code 1993, § 18.15(16))

#### **Sec. 74-197. Bicycle routes.**

On road bicycle routes or paved and marked bicycle lanes along arterial and collector streets, as proposed by the adopted county master bike route development plan or adopted local plan, may be required by the village board.

(Code 1993, § 18.15(17))

#### **Sec. 74-198. Street intersections.**

Streets shall intersect as nearly at right angles to each other as topography and other limiting factors of good design permit. Angles less than 75 degrees are prohibited. In addition:

- (1) The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two.
- (2) The number of intersections along arterial streets and highways shall be minimized. Wherever practicable, the distance between such intersections shall not be less than 1,000 feet.
- (3) On all streets where sidewalks are required, ramps or openings to accommodate handicapped individuals or their vehicles shall be provided in accordance with Wis. Stats. § 66.616.
- (4) Collector and local streets shall not necessarily continue across arterials or collector streets, but, if the centerline of such intersecting streets approach the arterial or collector streets from opposite sides within 120 feet of each other, measured along the centerline of the arterial or collector, the location shall be adjusted so that the alignment across the arterial or collector street is continuous and a jog is avoided.

(Code 1993, § 18.15(18))

#### **Sec. 74-199. Blocks.**

The widths, lengths and shapes of blocks shall be suited to the planned use of the land,

zoning requirements, need for convenient access, control and safety of street traffic and topography.

- (1) *Lengths.* Blocks in residential areas shall not, as a general rule, be more than 1,500 feet in length, unless otherwise dictated by exceptional topography or other limiting factors of good design.
- (2) *Pedestrian ways.* Pedestrian ways, of not less than 12 feet in width, may be required near the center and entirely across any block over 900 feet in length, where deemed essential by the village board, to provide adequate pedestrian circulation or access to streams, lakeshores, parkways, park lands, schools, shopping centers, churches or transportation facilities.
- (3) *Widths.* Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic.

(Code 1993, § 18.15(19))

#### **Sec. 74-200. Lots.**

The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development contemplated. All lots shall conform to the applicable requirement of chapter 90 of this Code. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the building contemplated, including consideration of solar access.

- (1) *Side lots lines.* Side lot lines, where practicable, shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Side lot lines shall follow municipal boundary lines rather than cross them.
- (2) *Double and reverse frontage lots.* Double frontage and reverse frontage lots shall be prohibited, except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- (3) *Access.* Every lot shall front or abut on a public street or other officially approved means of access.
- (4) *Area and dimension.* The area and dimension of all lots shall conform to the requirements of chapter 90 of this Code. Building sites not served by a public sanitary sewer system or other approved system shall be of a sufficient size to permit the use of an on-site soil absorption sewage disposal system designed in accordance with the county sanitary ordinance.

- (5) *Resubdivision of oversized lots.* Whenever a tract is subdivided into parcels more than twice the minimum lot area required for the zoning district in which such parcel is located, the village board may require such parcels to be arranged and dimensioned to allow future resubdivision of any such parcels in accordance with the provisions of this chapter and in conformance with chapter 90 of this Code.
- (6) *Depth.* Lots shall normally have a minimum average depth of 120 feet. Excessive depth in relation to width shall be avoided, and a proportion of two to one shall be considered a desirable ratio, under normal conditions.
- (7) *Depth and width.* Depth and width of lots of parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the zoning restrictions for such use.
- (8) *Meander line and water's edge.* Lands lying between the meander line and the water's edge, and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge, shall be included as part of lots, outlots or public dedications in any plat abutting a stream or lake. Consideration shall be given to the location of lot lines to facilitate shoreline protection and maintenance of intended water access.
- (9) *Corner lots.* In blocks where extra footage above zoning requirements for lot width is available, the width of corner lots shall be enlarged.

(Code 1993, § 18.15(20))

#### **Sec. 74-201. Easements.**

(a) The village board may require easements of widths deemed adequate for the intended purpose on the property side of front lot lines, on each side of all rear lot lines, on each side of all side lot lines or across lots, where absolutely necessary, for electric power and communication facilities, open drainage, storm and sanitary sewers, street trees and gas, water and other utility lines. All easements shall be noted on the final plat, followed by a reference to the uses for which they are intended.

(b) An adequate easement shall be provided where a subdivision or certified survey map is traversed by a drainageway or stream. The location, width, alignment and improvement of such drainage or easement shall be subject to the approval of the village, and parallel streets or parkways may be required in connection therewith. Where necessary, stormwater drainage shall be maintained by landscaped open channels of an adequate size and grade to hydraulically accommodate maximum potential volumes of flow, subject to review and approval by the drainage district.

(Code 1993, § 18.15(21))

**Sec. 74-202. Public sites and open spaces.**

(a) In the design of the plat, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainageways and other public purposes. If designated on the comprehensive plan, comprehensive plan component, official map or component neighborhood development plan, if any, such areas shall be made a part of the plat, as stipulated in section 74-42(3). If such designation is not made, consideration shall be given to the location of such sites at the time of preliminary plat design and review.

(b) Public access to all navigable streams or lake shores shall be provided as required by Wis. Stats. ch. 236.  
(Code 1993, § 18.15(22))

**Secs. 74-203--74-230. Reserved.**

**ARTICLE IV.**

**REQUIRED IMPROVEMENTS**

**Sec. 74-231. Generally.**

- (a) *Installation; subdivider's agreement.*
- (1) The subdivider shall install the improvements set forth in this section, established by the village board, as reasonably necessary to the approved plat. The improvements shall be set forth in plans and specifications approved by the village and in a standard form written agreement between the village and the subdivider to be known as the "subdivider's agreement."
  - (2) Such agreement shall also establish that the subdivider shall:
    - a. Follow the approved plans and specifications, including a performance time schedule;
    - b. Permit village inspection of the subdivision;
    - c. Provide acceptable sureties that all required work shall be completed; and
    - d. Warranty work and materials for one year after adoption of a resolution of acceptance by the village board.

- (3) Such agreement shall also establish that the village:
- a. Shall perform its inspections in a timely manner;
  - b. May allow reduction in sureties in proportion to work inspected and tentatively accepted;
  - c. Shall, upon negotiation and mutual agreement with the subdivider, contribute toward oversize, on-site improvements or, in lieu thereof, assure the developer's right of recovery of his expenditures for oversize, on-site improvements or necessary off-site improvements, as shall be negotiated. A specific repayment schedule by the village shall be included. Where data cannot be established, events related to repayment shall be identified, such as the levying and collecting of special assessments from other owners, issuance of revenue or general obligation bonds or the receipt of certain taxes or user fees.

(b) *Survey monuments.*

- (1) The subdivider shall install survey monuments, placed in accordance with the requirements of Wis. Stats. § 236.15, and as may be required by the village.
- (2) The village board may waive the placing of monuments required under Wis. Stats. § 236.15(1)(b), (c) and (d), for a reasonable time, on the condition that the subdivider execute a financial surety pursuant to section 74-232(d) to ensure the placing of such monuments within the time required. The financial surety, pursuant to such section, shall be at a rate of \$100.00 per lot, with a minimum of \$500.00. The bond or certified check shall be written to the village.

(c) *Road and lot grading.* Cut and filled lands shall be graded to a maximum slope of four to one or the soil's angle of repose, whichever is the lesser, and seeded for permanent vegetation. Where steeper slopes are appropriate, the plans and specifications for such slopes shall be submitted for approval.

- (1) After the installation of temporary block corner monuments by the subdivider and approval of street grades by the village engineer, the subdivider shall grade the full width of the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the village engineer. The subdivider shall grade the roadbeds in the street right-of-way to subgrade.
- (2) Where utility facilities are to be installed underground by other a person than the subdivider, the utility easements shall be graded to within six

inches of final grade by the subdivider prior to the installation of such facilities, and earth fill, piles or mounds of soil or construction materials shall not be stored on such easement areas.

(d) *Paving of streets and bicycle or pedestrian paths.* Paving of streets and bicycle or pedestrian paths shall be in accordance with the following:

- (1) The subdivider shall install base course material over the approved subgrade, and finish surface paving in one or more courses, in accordance with the approved plans and specifications. The subdivider shall assume the entire cost for such pavings within the subdivision, except in the case of dual facilities required by the village board. The developer shall be responsible for payment of only one side of a required dual facility. The added cost for streets wider than 24 feet, measured exclusive of the shoulder in rural style cross section, or 40 feet in an urban style cross section measured face-of-curb to face-of-curb, shall be the responsibility of the village. If the subdivider wishes to install dual lane facilities, which may not be required by the village, the total cost of such improvements shall be borne by the subdivider.
- (2) The village board may require the subdivider to construct pedestrian paths on one side of all frontage streets and on one or both sides of all other streets within the subdivision. The location, type of material and construction of all pedestrian paths shall be in accordance with plans and standard specifications approved by the village board. The subdivider shall assume the entire cost of such installations within the subdivision, unless additional agreements are reached between the subdivider and the village board.

(e) *Road shoulders, ditches or curb and gutter.*

- (1) The subdivider shall install road shoulder material and the adjacent ditch or swale, both to finished grades in accordance with the approved plans and specifications. The subdivider shall be responsible for installing all necessary culverts at intersections and, if required, mulch, sod or surface ditch inverts to prevent erosion and sedimentation.
- (2) The subdivider shall assume the entire costs of the road ditch within the subdivision, except that in dual roadways required by the village, the inside or boulevard portion shall be borne by the village.

(f) *Sewage disposal facilities.* The subdivider shall install sanitary sewers, manholes and laterals and other appurtenances so as to provide service to each parcel within the subdivision. The subdivider shall also provide trunk service to areas outside the subdivision which are tributary to the sewers within the subdivision. This shall be determined in the plans and specifications, which shall have the approval of the sewer commission. The subdivider shall

assume the full cost of the sanitary system within such subdivision, except that where a trunk line located within the development serving other areas creates an excess cost to the subdivider, as determined by the sewer commission, such excess cost shall be borne by the village. In addition to the costs within the subdivision as set forth in this subsection, the subdivider may be required to pay any pro rata connection charge to the trunk interceptor system, or a pro rata charge for previously furnished adjacent sewers or laterals providing service to the subject subdivision, as determined by the sewer commission.

(g) *Stormwater drainage facilities.* The subdivider shall construct stormwater drainage facilities which are adequate to serve the subdivision, which may include curbs and gutters, catchbasins and inlets, storm sewers, road ditches, open channels, water retention structures or detention basins and settling basins. All such facilities shall be of an adequate size and grade to hydraulically accommodate the design volumes of flow as required by the village drainage district.

- (1) *Farm drainage tiles.* The subdivider shall reconstruct, replace or reroute all farm drainage tiles encountered or damaged during subdivision construction to provide equal or better farm drainage. The subdivider shall provide to the village drainage district a permanent record of such reconstruction, replacement or rerouting.
- (2) *Shoreland drainage facilities.* Drainage facilities in shoreland floodplain areas also fall under the jurisdiction of the county. Such shoreland drainage facilities shall, if required, include water retention structures and settling basins to prevent erosion and sedimentation where such facilities discharge into streams or lakes. The design of all stormwater drains and sewers, invert and erosion control, and/or sodding of open channels and unpaved road ditches proposed to be constructed, or other acceptable erosion methods, shall be in accordance with the plans and standard specifications approved by the county.
- (3) *Cost of installation.* The subdivider shall assume the cost of installing all stormwater facilities within the proposed subdivision, except for the added cost of installing stormwater facilities, including sewers over 36 inches in diameter which are necessary to serve tributary drainage areas lying outside of the proposed subdivision. In addition, the subdivider shall pay to the drainage district a stormwater facilities drainage charge, as the district commission shall establish, based on the added cost of installing drainage facilities serving the subdivision's total drainage area, which shall be pro rated in proportion to the ration which the total area of the proposed plat is to the total drainage area to be served by such larger sewers, as established by the drainage commission.

(h) *Water supply facilities.* The subdivider shall cause water supply and distribution facilities to be installed in a manner so as to make adequate water service available to each lot within the subdivision. If municipal water service is not available, the subdivider shall make

provisions for adequate potable common water systems as required by the village board in accordance with the standards of the state department of commerce or the county water utility. Where the existence of potable water is questionable, the village may require the subdivider to provide evidence of an adequate, safe water supply.

- (1) The size, type and installation of all public water mains proposed to be constructed shall be in accordance with the plans and standard specifications approved by the village engineer and water utility.
- (2) The subdivider shall assume the cost of installing all water mains, water laterals and water system appurtenances within the proposed subdivision, except for the added cost of installing water mains greater than 12 inches in diameter, which shall be borne by the water utility.

(i) *Other utilities.*

- (1) The subdivider shall cause electrical power and telephone facilities to be installed in a manner so as to make adequate service available to each lot in the subdivision, and gas for heating, if it is available. All new electric or communication lines from which lots are individually served shall be installed underground within all newly platted subdivisions or certified survey maps in all residential districts shown on the zoning map, unless the approving authorities shall find, after study, that the location, topography, soil, stands of trees or other physical barriers would make underground installation unreasonable or impracticable, or that the lots to be served by such facilities can be served directly from existing overhead facilities. Associated equipment and facilities which are appurtenant to underground electric and communications systems, including, but not limited to, substations, pad mounted transformers, pad mounted sectionalizing switches and pedestal mounted terminal boxes, may be located above the ground. Any landscape screening plan required for such above the ground equipment shall be submitted for the affected utilities approval.
- (2) A plan indicating the proposed location of all gas, electrical power and communication distribution and transmission facilities required to service the plat shall be approved by the village engineer for coordination with the location of village utilities.

(j) *Streetlamps.* The village may require the subdivider to install streetlamps at street intersections.

(k) *Street name signs.* At the intersection of all streets, the subdivider shall install a street name sign of a design specified by the village.

(1) *Soil and water conservation.* Upon determining from a review of the plat that the soil, slope, vegetation and drainage characteristics of the site are such as to require substantial cutting, clearing, grading or other earth moving operations in the development of the subdivision, or to otherwise entail an erosion hazard, the village engineer shall require the subdivider to provide soil erosion and sedimentation control measures to be included in the plans and specifications for the subdivision.  
(Code 1993, § 18.16)

## **Sec. 74-232. Construction.**

(a) *Commencement.* No construction or installation of improvements to be dedicated to the public shall commence in connection with an approved preliminary or final plat, or approved preliminary or final certified survey map, until adequate plans and specifications have been approved by the village board, upon the advice of the village engineer, and until adequate financial guarantees or completion are given to the village board, including warranties of the work. Execution of a subdivider's agreement shall constitute authorization to the subdivider to proceed.

(b) *Plans, specifications and engineering data.* The following plans and accompanying construction specifications and engineering data shall be provided by the subdivider, at his own expense, and approved by the village engineer and appropriate commissions before construction or installation of improvements is authorized.

- (1) *Streets.* Street plans and profiles, showing existing and proposed grades, elevations and cross sections of the required improvements.
- (2) *Sanitary sewer.* Sanitary sewer plans and profiles, showing the locations, grades, sizes, elevations and materials of required facilities for approval by the sewer commission.
- (3) *Storm sewers, open channels and basins.* Storm sewer, open channel and detention or retention basin plans and profiles, showing the locations, grades, sizes, cross sections, elevations and materials of facilities, as required and approved by the drainage commission.
- (4) *Water main.* Water main plans and profiles, showing the locations, sizes, elevations and materials of required facilities.
- (5) *Erosion and sedimentation control.* Erosion and sedimentation control plans, showing the structures or methods of construction required to retard the rate of runoff water, and the grading and excavating practices that will prevent erosion and sedimentation, including the following:
  - a. *Trees.* Trees are to be protected and preserved during construction, in accordance with sound conservation practices recommended by the U.S. Department of Agriculture in Home and Garden Bulletin,

No. 104, Protecting Shade Trees During Home Construction, U.S. Government Printing Office.

- b. *Vegetation and mulching.* Temporary vegetation and mulching shall be used to protect critical areas and permanent vegetation shall be installed as soon as practical.
- c. *Construction area.* Construction, at any given time, shall be confined to the smallest practical area and for the shortest practical period of time.
- d. *Sediment basins.* Sediment basins shall be installed and maintained at all drainageways to trap, remove and prevent sediment and debris from being washed outside the area being developed.

- (6) *Lot grading.* Lot grading plans of proposed elevations of all lot corners shall be provided in mean sea level datum to ensure proper drainage.
- (7) *Lake Michigan shore erosion hazard areas.* Erosion hazard abatement plans shall be prepared for any lands which are proposed to be divided and are subject to Lake Michigan erosion hazards, indicating the precautions which will be taken to prevent or retard future erosion hazard situations. The plan shall indicate that permanent structures will be located outside of identified erosion hazard areas or, alternatively, indicate the types of shore protection measures that will be installed to justify a smaller setback. Such erosion hazard areas and the required erosion hazard setbacks shall be shown on the land division plat and certified survey maps.
- (8) *Additional plans.* Additional special plans or information as required by the village engineer shall be provided.

(c) *Inspections.* Prior to commencing any work within the subdivision, the subdivider shall make arrangements with the village authorities having jurisdiction to provide for adequate inspections. The approving authorities having jurisdiction or their representative shall inspect and approve all completed work, prior to the release of the sureties.

(d) *Financial sureties.*

- (1) Financial sureties furnished to the village by subdividers to ensure performance of obligations and guarantees, under the terms of this chapter, shall only be in a form which the village deems secure, and may include certified checks, corporate bonds, irrevocable letters of credit in a form approved by the village or performance bonds. The initial amount of the surety shall not be less than the full amount as estimated by the village engineer of the obligation being ensured, nor for a period of time less than the work is scheduled to be completed; however, the village, upon request

of the subdivider, may consider reductions in the amount of the surety in proportion to the amounts of the obligations as they are fulfilled. In a dispute over the amount of a surety, the estimate prepared by the village engineer shall be given greater weight by the village.

- (2) Where sureties are given to cover the cost of work to be performed by a person other than the subdivider or his contractors, at an unspecified time in the future, the form of surety shall be such as to bear interest, which shall accrue to the surety account to help defray increases in costs beyond those used to establish the present surety amount. Where the work is performed in less than seven years and costs are less than the surety, plus accrued interest, the difference shall be refunded to the subdivider, his heirs or assigns. Where the work is performed after seven years and costs are less than the surety, plus accrued interest, no refund shall be required and any such surplus shall flow to the general fund. The subdivider shall not, in any case, be obligated to make up any shortages between the surety, plus accrued interest, and the cost of the work once he submits the surety amount established by the village.

(e) *Permits.*

- (1) No building, zoning or sanitary permits shall be issued for erection of a structure on any lot of record at the time of adoption of the ordinance from which this chapter is derived until all of the requirements of this chapter have been met.
- (2) The proper authority, as designated by the village, shall have access to premises and structures during reasonable hours to make the inspections deemed necessary by him to ensure compliance with this chapter. If, however, he is refused entry after presentation of his identification, he shall procure a special inspection warrant in accordance with Wis. Stats. § 66.0119, except in cases of emergency, when he shall have the right of immediate entry.

(Code 1993, § 18.17)

**Sec. 74-233. Post-construction storm water management.**

(a) *Authority.*

- (1) This section is adopted by the Village of Mt. Pleasant under the authority granted by Wis. Stats. § 61.354. This section supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 61.35, that relate to storm water management regulations. Except as otherwise specified in Wis. Stats. § 61.354, Wis. Stats. § 61.35 applies to this section and to any amendments to this section.

- (2) The provisions of this section are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The village board of trustees hereby designates the Village of Mt. Pleasant to administer and enforce the provisions of this section.
- (4) The requirements of this section do not preempt more stringent storm water management requirements that may be imposed by any of the following:
  - a. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
  - b. Targeted nonagricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code § NR 151.004.
  - c. Village of Mt. Pleasant approved or adopted storm water management plans for specific areas or watersheds.

(b) *Findings of fact.* The village board of trustees finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loading.
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.

(c) *Purpose and intent.*

- (1) *Purpose.* The general purpose of this section is to establish long-term,

post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:

- a. Further the maintenance of safe and healthful conditions.
- b. Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
- c. Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter.
- d. Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.

(2) *Intent.* It is the intent of the Village Board of Trustees that this section regulates post-construction storm water discharges to waters of the state. This section may be applied on a site-by-site basis. The village board of trustees recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this section is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Wis. Stats. § 281.16, for regional storm water management measures and have been approved by the village board of trustees, it is the intent of this section that the approved plan be used to identify post-construction management measures acceptable for the community.

(d) *Applicability and jurisdiction.*

(1) *Applicability.*

- a. Except as provided under par. (b), this ordinance applies to a post-construction site whereupon one acre or more of land disturbing construction activity occurs during construction.

- b. A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance:
  - 1. A post-construction site with less than ten percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of this ordinance.
  - 2. Agricultural facilities and practices.
  - 3. Underground utility construction, but not including the construction of any above ground structures associated with utility construction.
- c. Notwithstanding the applicability requirements in paragraph a., this section applies to post-construction sites of any size that, in the opinion of the Village of Mt. Pleasant, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter.
- (2) *Jurisdiction.* This section applies to post-construction sites within the boundaries and jurisdiction of the Village of Mt. Pleasant.
- (3) *Exclusions.* This section is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1).
- (e) *Definitions.*
  - (1) *Adequate sod, or self-sustaining vegetative cover* means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.
  - (2) *Administering authority* means a governmental employee, or a regional planning commission empowered under Wis. Stats. § 61.354, that is designated by the village board of trustees to administer this section.
  - (3) *Agricultural facilities and practices* has the meaning given in Wis. Stats. § 281.16.

- (4) *Atlas 14* means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.
- (5) *Average annual rainfall* means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.
- (6) *Best management practice* or *BMP* means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (7) *Business day* means a day the offices of the village hall is routinely and customarily open for business.
- (8) *Cease and desist order* means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the administering authority.
- (9) *Combined sewer system* means a system for conveying both sanitary sewage and storm water runoff.
- (10) *Connected imperviousness* means an impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.
- (11) *Design storm* means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (12) *Development* means residential, commercial, industrial or institutional land uses and associated roads.
- (13) *Direct conduits to groundwater* means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depression groundwater recharge areas over shallow fractured bedrock.
- (14) *Effective infiltration area* means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (15) *Erosion* means the process by which the land's surface is worn away by the action of the wind, water, ice or gravity.

- (16) *Exceptional resource waters* means waters listed in Wis. Admin. Code § NR 102.11.
- (17) *Filtering layer* means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.
- (18) *Final stabilization* means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (19) *Financial guarantee* means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Village of Mt. Pleasant by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (20) *Governing body* means the village board of trustees.
- (21) *Impervious surface* means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, gravel or paved parking lots and streets are examples of areas that typically are impervious.
- (22) *In-fill* means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.
- (23) *Infiltration* means the entry of precipitation or runoff into or through the soil.
- (24) *Infiltration system* means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (25) *Land disturbing construction activity* means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing,

demolition, excavating, pit trench dewatering, filling and grading activities.

- (26) *Landowner* means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.
- (27) *Maintenance agreement* means a legal document that provides for long-term maintenance of storm water management practices.
- (28) *Maximum extent practicable* means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with subsection (em) of this ordinance.
- (29) *New development* means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (30) *NRCS MSE3 or MSE4 distribution* means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.
- (31) *Off-site* means located outside the property boundary described in the permit application.
- (32) *On-site* means located within the property boundary described in the permit application.
- (33) *Ordinary high-water mark* has the meaning given in Wis. Admin. Code § NR 115.03(6).
- (34) *Outstanding resource waters* means waters listed in Wis. Admin. Code § NR 102.10.
- (35) *Percent fines* means the percentage of a give sample of soil, which passes through a #200 sieve.
- (36) *Performance standard* means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (37) *Permit* means a written authorization made by the Village of Mt. Pleasant to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

- (38) *Permit administration fee* means a sum of money paid to the Village of Mt. Pleasant by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (39) *Pervious surface* means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
- (40) *Pollutant* has the meaning given in Wis. Stats. § 283.01(13).
- (41) *Pollution* has the meaning given in Wis. Stats. § 281.01(10).
- (42) *Post-construction site* means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (43) *Pre-development condition* means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
- (44) *Preventative action limit* has the meaning given in Wis. Admin. Code § NR 140.05(17).
- (45) *Protective area* means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.
- (46) *Redevelopment* means areas where development is replacing older development.
- (47) *Responsible party* means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (48) *Runoff* means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (49) *Separate storm sewer* means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutter, ditches, constructed channels or storm drains, which meets all of the following criteria:

- a. Is designed or used for collecting water or conveying runoff.
  - b. Is not part of a combined sewer system.
  - c. Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
  - d. Discharges directly or indirectly to waters of the state.
- (50) *Silviculture activity* means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (51) *Site* means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (52) *Stop work order* means an order issued by the Village of Mt. Pleasant which requires that all construction activity on the site be stopped.
- (53) *Storm water management plan* means a comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has under gone final stabilization, following completion of the construction activity.
- (54) *Storm water management system plan* is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (55) *Technical standard* means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (56) *Top of the channel* means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (57) *Total maximum daily load* or *TMDL* means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

- (58) *TP-40* means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.
- (59) *TR-55* means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.
- (60) *Transportation facility* means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1)(b), Wis. Stats. "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.
- (61) *TSS* means total suspended solids.
- (62) *Type II distribution* means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973".
- (63) *Waters of the state* includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

(em) *Applicability of maximum extent practicable.* Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the [administering authority]'s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(f) *Technical standards.* The following methods shall be used in designing the water quality, peak discharge, and infiltration components of storm water practices needed to meet the water quality standards of this ordinance:

- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under Wis. Admin. Code ch. NR 151, subch. V.

- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Village of Mt. Pleasant.
  - (3) Technical engineering standards administered and/or approved by the Village of Mt. Pleasant.
  - (4) Technical standards described in "The Wisconsin Storm Water Manual," WDNR for Wet Detention Basins.
  - (5) In this section, the following year and location has been selected as average annual rainfall: Milwaukee 1969 (Mar. 28--Dec. 6).
- (g) *Performance standards.*
- (1) *Responsible party.* The responsible party shall comply with this section.
  - (2) *Storm Water Management Plan.* A written storm water management plan in accordance with subsection (i) shall be developed and implemented for each post-construction site.
  - (3) *Maintenance of effort.* For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.
  - (4) *Requirements.* The storm water management plan required under subsection (2) shall include the following:
    - a. *Total suspended solids.* BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
      - 1. BMPs shall be designed in accordance with Table 1. or to the maximum extent practicable as provided in subd. 2. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

<b>Table 1. TSS Reduction Standards</b>	
<b>Development Type</b>	<b>TSS Reduction</b>
New Development	80 percent
In-fill development	80 percent
Redevelopment	40 percent of load from parking areas and roads

2. Maximum Extent Practicable. If the design cannot meet a total suspended solids reduction performance standard of Table 1., the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.
3. Off-Site Drainage. When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

b. *Peak discharge.*

1. By design, BMP's for all areas outside of the Des Plaines River Watershed shall be employed to maintain or reduce the 1-year, 24-hour; and the 2-year, 24-hour post-construction peak runoff discharge rates to the 1-year, 24-hour; and the 2-year, 24-hour pre-development peak runoff discharge rates respectively and shall be employed to reduce the 100-year, 24-hour, post-construction runoff rate to the ten-year, 24-hour, pre-development runoff rate, or to the maximum extent practicable. Storm water management practices within the Des Plaines River Watershed shall be employed to reduce the 100-year, 24-hour, post-construction rate to 0.3 cfs per acre. The post-construction two-year, 24-hour, rate shall be reduced to 0.04 cfs per acre. The runoff curve numbers in Table 2 shall be used to represent the actual pre-development conditions. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, the [administering authority] may allow the use of TP-40 precipitation depths and the Type II distribution

<b>Table 2. Maximum Pre-Development Runoff Curve Numbers</b>				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

2. By design, storm water management practices shall be employed to meet peak discharge requirements of village adopted storm water management plans for specific areas or watersheds where applicable.
3. This subsection (g)(3)b. does not apply to any of the following:
  - a. A post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.
  - b. Except as provided in (g)(3), a redevelopment post-construction site, if the impervious surface area of the redevelopment is not increased from existing conditions.
  - c. An in-fill development area less than five acres, unless determined otherwise by the village per subsection (d)(1)c.

c. *Infiltration.*

1. Best Management Practices. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
  - a. *Low imperviousness.* For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no

more than one percent of the post-construction site is required as an effective infiltration area.

b. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

c. *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

2. Pre-development. The pre-development condition shall be the same as specified in Table 2 of the Peak Discharge section of this ordinance.

3. Source Areas.

a. *Prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in sec. (g)(4)(c)6.:

i. Areas associated with a tier 1 industrial facility identified in s. NR 216.21 (2)(a), including storage, loading and parking.

Rooftops may be infiltrated with the concurrence of the regulatory authority.

- ii. Storage and loading areas of a tier 2 industrial facility identified in s. NR 216.21 (2)(b).
  - iii. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.
- b. *Exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:
- i. Parking areas and access roads less than 5,000 square feet for commercial development.
  - ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under par a.
  - iii. Except as provided under sec. (g)(3), redevelopment post-construction sites.
  - iv. In-fill development areas less than 5 acres.
  - v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.

4. Location of Practices.

- a. *Prohibitions. Infiltration practices may not be located in the following areas:*
- i. Areas within 1000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.
  - ii. Areas within 400 feet of a community water system well as specified in s. NR 811.16 (4) or within the separation distances listed in s.

NR 812.08 for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial and institutional land uses or regional devices for one- and two-family residential development.

- iii. Areas where contaminants of concern, as defined in s. NR 720.03 (2), are present in the soil through which infiltration will occur.

b. *Separation distances.*

- i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

<b>Table 3. Separation Distances and Soil Characteristics</b>		
<b>Source Area</b>	<b>Separation Distance</b>	<b>Soil Characteristics</b>
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

- ii. Notwithstanding par. b., applicable requirements for injection wells classified under ch. NR 815 shall be followed.
- iii. Infiltration rate exemptions. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:

- a) Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
  - b) Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
- 5. Alternate Use. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.
- 6. Groundwater Standards.
  - a. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
  - b. Notwithstanding par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- 7. Pretreatment. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from

clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 6. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

8. Maximum Extent Practicable. Where the conditions of subd. 3. and 4. limit or restrict the use of infiltration practices, the performance standard of sec. (g)(4)(c) shall be met to the maximum extent practicable.

(d) *Protective areas.* The following are minimum standards for protective areas; however, the village may impose greater limits based on site specific information:

1. Definition. In this section, “protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.
  - a. For outstanding resource waters and exceptional resource waters, 75 feet.
  - b. For perennial and intermittent streams identified on a U.S. Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
  - c. For lakes, 50 feet.
  - d. For wetlands not subject to par. e. or f., 50 feet.
  - e. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
  - f. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor

more than 30 feet. Less susceptible wetlands include: degraded wetland dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

- g. In pars. d. to f., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.
  - h. Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
  - i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
  - j. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.
- 2. Applicability. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
- 3. Requirements. The following requirements shall be met:
  - a. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written, site-specific explanation.

- b. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.
  - c. BMPs such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.
- 4. Exemptions. This section does not apply to any of the following:
  - a. Except as provided under sec. (g)(3), redevelopment post-construction sites.
  - b. In-fill development areas less than 5 acres.
  - c. Structures that cross or access surface water such as boat landings, bridges, and culverts.
  - d. Structures constructed in accordance with s. 59.692 (1v), Stats.
  - e. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local ordinance requirements for total suspended solids and peak flow reduction, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- (e) *Fueling and vehicle maintenance areas.* Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.

(f) *Swale treatment for transportation facilities.*

1. Requirement. Except as provided in subd. 2., transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of local ordinance requirements for peak flow control, total suspended solids control, and infiltration, if the swales are designed to do all of the following or to the maximum extent practicable:
  - a. Swales shall be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
  - b. Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Slope Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 “Vegetated Infiltration Swales”, dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.
2. Other requirements.
  - a. Notwithstanding subd. 1., the administering authority may, consistent with water quality standards, require that other requirements, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2,500 and where the initial surface water of the state that the runoff directly enters is one of the following:
    - i. An outstanding resource water.
    - ii. An exceptional resource water.
    - iii. Waters listed in section 303 (d) of the Federal Clean Water Act that are identified as impaired in whole or in part, due to non-point source impacts.

- iv. Water where targeted performance standards are developed pursuant to s. NR 151.004, Wis. Adm. Code.
  - b. The transportation facility authority shall contact the administering authority to determine if additional BMPs beyond a water quality swale are needed under this subsection.
- (g) *Storm sewers and culverts.*
  - a. Storm sewers and culverts shall be designed for a ten-year storm event as defined by the Southeastern Wisconsin Planning Commission (SEWRPC).
  - b. Storm sewers shall be designed to be self-cleaning with a minimum velocity of two feet per second and a maximum velocity of 12 feet per second.
- (5) *General Considerations For Storm Water Management Measures.* The following considerations shall be observed in on-site and off-site runoff management:
  - (a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
  - (b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (6) *BMP Location.*
  - (a) To comply with the performance standards required under sec. (g) of this ordinance, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003, Wis. Adm. Code.
  - (b) The administering authority may approve off-site management measures provided that all of the following conditions are met:
    - 1. The administering authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Village of

Mt. Pleasant and that contains management requirements consistent with the purpose and intent of this ordinance.

2. The off-site facility meets all of the following conditions:

- a. The facility is in place.
- b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
- c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(c) Where a regional treatment option exists such that the administering authority exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the administering authority. In determining the fee for post-construction runoff, the administering authority shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(7) *Additional Requirements.* The administering authority may establish storm water management requirements more stringent than those set forth in this ordinance if the administering authority determines that the requirements are needed to control storm water quantity or control flooding, comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

(h) *Permitting requirements, procedures and fees.*

(1) *Permit required.* No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Village of Mt. Pleasant prior to commencing the proposed activity.

(2) *Permit application and fees.* Unless specifically excluded by this section, any responsible party desiring a permit shall submit to the Village of Mt. Pleasant a permit application made on a form provided by the Village of Mt. Pleasant for that purpose.

- a. Unless otherwise excepted by this section, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a nonrefundable permit administration fee.
  - b. The storm water management plan shall be prepared to meet the requirements of subsections (g) and (i), the maintenance agreement shall be prepared to meet the requirements of subsection (j), the financial guarantee shall meet the requirements of subsection (k), and fees shall be those established by the Village of Mt. Pleasant as set forth in subsection (l).
- (3) *Review and approval of permit application.* The Village of Mt. Pleasant shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
- a. Within 20 business days of the receipt of a complete permit application, including all items as required by subsection (2), above, the Village of Mt. Pleasant shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this section.
  - b. If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Village of Mt. Pleasant shall issue the permit.
  - c. If the storm water permit application, plan or maintenance agreement is disapproved, the Village of Mt. Pleasant shall detail in writing the reasons for disapproval.
  - d. The Village of Mt. Pleasant may request additional information from the applicant. If additional information is submitted, the Village of Mt. Pleasant shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
  - e. Failure by the Village of Mt. Pleasant to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) *Permit requirements.* All permits issued under this section shall be subject to the following conditions, and holders of permits issued under this section shall be deemed to have accepted these conditions. The Village of

Mt. Pleasant may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Village of Mt. Pleasant to suspend or revoke this permit may be appealed in accordance with subsection (n).

- a. Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- b. The responsible party shall design and install all structural and nonstructural storm water management measures in accordance with the approved storm water management plan and this permit.
- c. The responsible party shall notify the Village of Mt. Pleasant at least five business days before commencing any work in conjunction with the storm water management plan, and within 5 business days upon completion of the storm water management practices. If required as a special condition under subsection (5), below, the responsible party shall make additional notification according to a schedule set forth by the Village of Mt. Pleasant so that practice installations can be inspected during construction.
- d. Practice installations required as part of this section shall be certified "as built" or "record" drawings by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Village of Mt. Pleasant or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Village of Mt. Pleasant or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
- e. The responsible party shall notify the Village of Mt. Pleasant of any significant modifications it intends to make to an approved storm water management plan. The Village of Mt. Pleasant may require that the proposed modifications be submitted for approval prior to incorporation into the storm water management plan and execution by the responsible party.
- f. The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Village of Mt. Pleasant, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

- g. The responsible party authorizes the Village of Mt. Pleasant to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under Wis. Stats. ch. 66, subch. VII, or charge such costs against the financial guarantee posted under subsection (k).
  - h. If so directed by the Village of Mt. Pleasant, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
  - i. The responsible party shall permit property access to the Village of Mt. Pleasant or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
  - j. Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Village of Mt. Pleasant may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
  - k. The responsible party is subject to the enforcement actions and penalties detailed in subsection (m), if the responsible party fails to comply with the terms of this permit.
- (5) *Permit conditions.* Permits issued under this subsection may include conditions established by the Village of Mt. Pleasant in addition to the requirements needed to meet the performance standards in subsection (g) or a financial guarantee as provided for in subsection (k).
- (6) *Permit duration.* Permits issued under this section shall be valid from the date of issuance through the date the Village of Mt. Pleasant notifies the responsible party that all storm water management practices have passed the final inspection required under subsection (4)d, above.
- (i) *Storm water management plan.*
- (1) *Plan requirements.* The storm water management plan required under subsection (h)(2) shall contain at a minimum the following information:
- a. Name, address, and telephone number for the following or their

designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

- b. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- c. Predevelopment site conditions, including:
  - 1. One or more site maps at a scale of not less than one inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 100 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100-year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to Wis. Admin. Code § NR 811.16.
  - 2. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- d. Postdevelopment site conditions, including:
  - 1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.

2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
  3. One or more site maps at a scale of not less than one inch equals 100 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 100 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
  4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
  5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
- e. A description and installation schedule for the storm water management practices needed to meet the performance standards in subsection (g).
  - f. A maintenance plan developed for the life of each storm water management practice including the required maintenance activities

and maintenance activity schedule.

- g. Cost estimates for the construction, operation, and maintenance of each storm water management practice.
- h. Other information requested in writing by the Village of Mt. Pleasant to determine compliance of the proposed storm water management measures with the provisions of this section.
- i. All site investigations, plans, designs, computations, and drawings shall be certified by a licensed Wisconsin professional engineer to be prepared in accordance with accepted engineering practice and requirements of this section.

- (2) *Alternate requirements.* The Village of Mt. Pleasant may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under subsection (g)(5).

(j) *Maintenance agreement.*

- (1) *Filing of agreement.* The maintenance agreement required under subsection (h)(2) for storm water management practices shall be an agreement between the Village of Mt. Pleasant and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the Racine County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
- (2) *Agreement provisions.* The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by subsection (i)(1)f.:
  - a. Identification of the storm water facilities and designation of the drainage area served by the facilities.
  - b. A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under subsection (h)(2).
  - c. Identification of the responsible party(s), organization or city, county, or village responsible for long term inspection and maintenance of the storm water management practices identified in the storm water management plan required under subsection (h)(2).

- d. Requirement that the responsible party(s), organization or city, county, or village shall maintain storm water management practices in accordance with the schedule included in subsection b., hereinabove.
- e. Authorization for the Village of Mt. Pleasant to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- f. A requirement on the Village of Mt. Pleasant to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
- g. Agreement that the party designated under subsection c., hereinabove, as responsible for long term inspection and maintenance of the storm water management practices, if notified by the Village of Mt. Pleasant of maintenance problems which require correction, undertake corrective within a reasonable time frame as set by the Village of Mt. Pleasant.
- h. Authorization of the Village of Mt. Pleasant to perform the corrected actions identified in the village notification under subsection f., hereinabove, if the responsible party designated under subsection c., hereinabove, does not make the required corrections in the specified time period. The Village of Mt. Pleasant shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Wis. Stats. ch. 66, subch. VII.

(k) *Financial guarantee.*

- (1) *Establishment of the guarantee.* The Village of Mt. Pleasant may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Village of Mt. Pleasant. The financial guarantee shall be in an amount determined by the Village of Mt. Pleasant to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Village of Mt. Pleasant the authorization to use the funds to complete the storm water management practices, or restore the project site as deemed fit by the Village, if the responsible party defaults or does not properly implement the approved storm water

management plan, upon written notice to the responsible party by the administering authority that the requirements of this section have not been met.

(2) *Conditions for release.* Conditions for the release of the financial guarantee are as follows:

- a. The Village of Mt. Pleasant shall release the portion of the financial guarantee established under this section, less any costs incurred by the Village of Mt. Pleasant to complete installation of practices, upon submission of "as built plans" or "record" drawings by a licensed professional engineer. The Village of Mt. Pleasant may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
- b. The Village of Mt. Pleasant shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Village of Mt. Pleasant, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

(l) *Fee schedule.* The fees referred to in other sections of this section shall be established by the Village of Mt. Pleasant and may from time to time be modified by resolution. A schedule of the fees established by the Village of Mt. Pleasant shall be available for review in the village hall.

(m) *Enforcement.*

- (1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this section by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this section.
- (2) The Village of Mt. Pleasant shall notify the responsible party by certified mail of any noncomplying land disturbing construction activity or post-construction runoff. The notice shall described the nature of the violation, remedial actions needed, a schedule of remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the Village of Mt. Pleasant under subsection (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet

the specifications and schedule set forth by the Village of Mt. Pleasant in the notice.

- (4) If the violations to a permit issued pursuant to this section are likely to result in damage to properties, public facilities, or waters of the state, the Village of Mt. Pleasant may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Village of Mt. Pleasant plus interest and legal costs shall be billed to the responsible party.
- (5) The Village of Mt. Pleasant is authorized to post a stop work order on all land disturbing construction activity that is in violation of this section, or to request the municipal attorney to obtain a cease and desist order in any court with jurisdiction.
- (6) The Village of Mt. Pleasant may revoke a permit issued under this section for noncompliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Village of Mt. Pleasant or by a court with jurisdiction.
- (8) The Village of Mt. Pleasant is authorized to refer any violation of this section, or of a stop work order or cease and desist order issued pursuant to this section, to the municipal attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) Any person, firm, association, or corporation who does not comply with the provisions of this section shall be subject to a forfeiture of not less than \$500.00 or more than \$1,000.00 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Compliance with the provisions of this section may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (11) When the Village of Mt. Pleasant determines that the holder of a permit issued pursuant to this section has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the Village of Mt. Pleasant or a party designated by the Village of Mt. Pleasant may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Village of Mt. Pleasant shall keep a detailed accounting of the costs

and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to subsection (k) of this section. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(n) *Appeals.*

- (1) *Board of appeals.* The board of appeals of the Village of Mt. Pleasant, pursuant to Wis. Stats. § 61.354(4)(b), shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village of Mt. Pleasant in administering this section. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this section that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.
- (2) *Who may appeal.* Appeals to the board of appeals may be taken by any aggrieved person or by an officer, department, board or bureau of the Village of Mt. Pleasant affected by any decision of the Village of Mt. Pleasant.

(o) *Severability.* If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

**Sec. 74-234. Construction site erosion and sediment control.**

(a) *Authority.*

- (1) This section is adopted under the authority granted by Wis. Stats. § 61.354, for villages. This section supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 61.35, that relate to construction site erosion control. Except as otherwise specified in Wis. Stats. § 61.354, Wis Stats. § 61.35, applies to this section and to any amendments to this section.
- (2) The provisions of this section are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The village board of trustees hereby designates the Village of Mt. Pleasant to administer and enforce the provisions of this section.

- (4) The requirements of this section do not preempt more stringent erosion and sediment control requirements that may be imposed by any of the following:
  - a. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
  - b. Targeted nonagricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code § NR 151.004.

(b) *Findings of fact.* The Village of Mt. Pleasant finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the Village of Mt. Pleasant.

(c) *Purpose.* It is the purpose of this section to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the Village of Mt. Pleasant.

(d) *Applicability and jurisdiction.*

(1) *Applicability.*

- a. Except as provided under par. (b), this ordinance applies to any construction site as defined under sec. (e)(6).
- b. This section does not apply to the following:
  - 1. Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.
  - 2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
  - 3. Nonpoint discharges from agricultural facilities and practices.

4. Nonpoint discharges from silviculture activities.
  5. Routine maintenance for project sites under five acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- c. Notwithstanding the applicability requirements in subsection (d)(1)a., this section applies to construction sites of any size that, as determined by the Village of Mt. Pleasant, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, or that increases water pollution by scouring or transporting of particulate.
- (2) *Jurisdiction.* This section applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the Village of Mt. Pleasant.
  - (3) *Exclusions.* This section is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1).
- (e) *Definitions.*
- (1) *Administering authority* means a governmental employee, or a regional planning Commission empowered under Wis. Stats. § 61.354, that is designated by the Village of Mt. Pleasant to administer this section.
  - (2) *Agricultural facilities and practices* has the meaning in Wis. Stats. § 281.16(1).
  - (3) *Best management practice* or *BMP* means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
  - (4) *Business day* means a day the office of the Village Hall is routinely and customarily open for business.
  - (5) *Cease and desist order* means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the Village of Mt. Pleasant.
  - (6) *Construction site* means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different

times on different schedules but under one plan. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.

- (7) *Design storm* means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (8) *Erosion* means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (9) *Erosion and sediment control plan* means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (10) *Final stabilization* means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
- (11) *Governing body* means county board of supervisors, city council, village board of trustees or village council.
- (12) *Land disturbing construction activity* means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (13) *Landowner* means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.
- (14) *MEP or maximum extent practicable* means means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with sec. (em) of this ordinance.
- (15) *Performance standard* means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (16) *Permit* means a written authorization made by the Village of Mt. Pleasant

to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

- (17) *Pollutant* has the meaning given in Wis. Stats. § 283.01(13).
- (18) *Pollution* has the meaning given in Wis. Stats. § 281.01(10).
- (19) *Responsible party* means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (20) *Runoff* means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (21) *Sediment* means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (22) *Silviculture activity* means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (23) *Site* means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (24) *Stop work order* means an order issued by the Village of Mt. Pleasant which requires that all construction activity on the site be stopped.
- (25) *Technical standard* means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (26) *Transportation facility* means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1)(b), Wis. Stats. “Transportation facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.
- (27) *Waters of the state* includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes,

watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

- (em) *Applicability of maximum extent practicable.* Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the [administering authority]'s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.
- (f) *Technical standards.* All BMPs required to comply with this section shall meet the design criteria, standards and specifications based on any of the following:
  - (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
  - (2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.
  - (3) Technical standards and methods approved by the Village of Mt. Pleasant.
- (g) *Performance standards for construction sites of one acre or more.*
  - (1) *Responsible party.* The responsible party shall comply with this section and implement an erosion and sediment control plan, developed in accordance with subsection (i).
  - (2) *Erosion and Sediment Control Plan.* A written plan shall be developed in accordance with subsection (i) and implemented for each construction site.
  - (3) *Erosion and other pollutant control requirements.* The plan required under subsection (2) shall include the following:
    - a. *Erosion And Sediment Control Practices.* Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

1. The deposition of soil from being tracked onto streets by vehicles.
  2. The discharge of sediment from disturbed areas into on-site storm water inlets.
  3. The discharge of sediment from disturbed areas into adjacent waters of the state.
  4. The discharge of sediment from drainage ways that flow off the site.
  5. The discharge of sediment by dewatering activities.
  6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
  7. The discharge of sediment from erosive flows at outlets and in downstream channels.
  8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
  9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
- b. *Sediment Performance Standards.* In addition to the erosion and sediment control practices under par. (a), the following erosion and sediment control practices shall be employed:
1. BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
  2. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for

limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.

3. Notwithstanding subd. 1., if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

c. *Preventive Measures.* The erosion and sediment control plan shall incorporate all of the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
4. Development of spill prevention and response procedures.

d. *Location.* The BMPs used to comply with this section shall be located so that treatment occurs before runoff enters waters of the state.

(4) *Implementation.* The BMPs used to comply with this section shall be implemented as follows:

- a. Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in sub. (g)(2).
- b. Erosion and sediment control practices shall be maintained until final stabilization.
- c. Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- d. Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

- e. BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.
- (h) *Permitting requirements, procedures and fees.*
- (1) *Permit required.* No responsible party may commence a land disturbing construction activity subject to this section without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Village of Mt. Pleasant.
  - (2) *Permit application and fees.* The responsible party that will undertake a land disturbing construction activity subject to this section shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of subsection (i) and shall pay an application fee as required in subsection (j) to the Village of Mt. Pleasant. By submitting an application, the applicant is authorizing the Village of Mt. Pleasant to enter the site to obtain information required for the review of the erosion and sediment control plan.
  - (3) *Review and approval of permit application.* The Village of Mt. Pleasant shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
    - a. Within 20 business days of the receipt of a complete permit application, as required by subsection (2), above, the Village of Mt. Pleasant shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this section.
    - b. If the permit application and plan are approved, the Village of Mt. Pleasant shall issue the permit.
    - c. If the permit application or plan is disapproved, the Village of Mt. Pleasant shall state in writing the reasons for disapproval.
    - d. The Village of Mt. Pleasant may request additional information from the applicant. If additional information is submitted, the Village of Mt. Pleasant shall have 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
    - e. Failure by the Village of Mt. Pleasant to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

- (4) *Surety bond.* As a condition of approval and issuance of the permit, the Village of Mt. Pleasant may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.
- (5) *Permit requirements.* All permits shall require the responsible party to:
- a. Notify the Village of Mt. Pleasant within 48 hours of commencing any land disturbing construction activity.
  - b. Notify the Village of Mt. Pleasant of completion of any BMPs within 14 days after their installation.
  - c. Obtain permission in writing from the Village of Mt. Pleasant prior to any modification pursuant to subsection (i)(3) of the erosion and sediment control plan.
  - d. Install all BMPs as identified in the approved erosion and sediment control plan.
  - e. Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
  - f. Repair any siltation or erosion damage to adjacent lands and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
  - g. Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
  - h. Allow the Village of Mt. Pleasant to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan at the construction site.
- (6) *Permit conditions.* Permits issued under this section may include conditions established by the Village of Mt. Pleasant in addition to the requirements set forth in subsection (5), above, where needed to assure compliance with the performance standards in subsection (g).

- (7) *Permit duration.* Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Village of Mt. Pleasant may extend the period one or more times for up to an additional 180 days cumulatively. The Village of Mt. Pleasant may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this section.
- (8) *Maintenance.* The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this section until the site has undergone final stabilization.
- (i) *Erosion and sediment control plan, statement, and amendments.*
  - (1) *Erosion and sediment control plan statement.* For each construction site identified under sec. (d)(1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Village of Mt. Pleasant. The erosion and sediment control plan statement shall briefly describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement.
  - (2) *Erosion and sediment control plan.*
    - a. An erosion and sediment control plan shall be prepared and submitted to the Village of Mt. Pleasant.
    - b. The erosion and sediment control plan shall be designed to meet the performance standards in subsection (g) and other requirements of this section.
    - c. The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
      - 1. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
      - 2. Description of the construction site and nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

3. Description of the intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
  4. Estimates of the total area of the construction site and the total area of the construction site that is expected to be disturbed by land disturbing construction activities.
  5. Calculations to show the compliance with the performance standard is sec. (g)(3)(b)1.
  6. Existing data describing the surface soil as well as subsoils.
  7. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
  8. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- d. The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.
1. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
  2. Boundaries of the construction site.
  3. Drainage patterns and approximate slopes anticipated after major grading activities.
  4. Areas of soil disturbance.

5. Location of major structural and nonstructural controls identified in the plan.
  6. Location of areas where stabilization BMPs will be employed.
  7. Areas which will be vegetated following land disturbing construction activities.
  8. Area(s) and location(s) of wetlands on the construction site and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
  9. Areas(s) used for infiltration of post-construction storm water runoff.
  10. An alphanumeric or equivalent grid overlying the entire construction site map.
- e. Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:
1. Description of interim and permanent stabilization practices, including a BMP implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
  2. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the Village of Mt. Pleasant, structural measures shall be installed on upland soils.

3. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
  4. Trapping of sediment in channelized flow.
  5. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
  6. Protection of downslope drainage inlets where they occur.
  7. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
  8. Clean up of off-site sediment deposits.
  9. Proper disposal of building and waste material.
  10. Stabilization of drainage ways.
  11. Installation of permanent stabilization practices as soon as possible after final grading.
  12. Minimization of dust to the maximum extent practicable.
- f. The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a nonerosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.
- (3) *Erosion and sediment control plan amendments.* The applicant shall amend the erosion and sediment control plan if any of the following occur:
- a. There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
  - b. The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
  - c. The Village of Mt. Pleasant notifies the applicant of changes needed in the erosion and sediment control plan.

(j) *Fee schedule.* The fees referred to in other sections of this section shall be established by the Village of Mt. Pleasant and may from time to time be modified by resolution. A schedule of the fees established by the Village of Mt. Pleasant shall be available for review in the village hall.

(k) *Inspection.* If land disturbing construction activities are occurring without a permit required by this section, the Village of Mt. Pleasant may enter the land pursuant to the provisions of Wis. Stats. § 66.0119(1), (2), and (3).

(l) *Enforcement.*

- (1) The Village of Mt. Pleasant may post a stop-work order if any of the following occurs:
  - a. Land disturbing construction activity regulated under this section is being undertaken without a permit.
  - b. The erosion and sediment control plan is not being implemented in good faith.
  - c. The conditions of the permit are not being met.
- (2) If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the Village of Mt. Pleasant may revoke the permit.
- (3) If the responsible party, where no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the Village of Mt. Pleasant, or if a responsible party violates a stop-work order posted under subsection (1), the Village of Mt. Pleasant may request the village attorney to obtain a cease and desist order in any court with jurisdiction.
- (4) The Village of Mt. Pleasant may retract the stop-work order issued under subsection (1), or the permit revocation under subsection (2).
- (5) After posting a stop-work order under subsection (1), the Village of Mt. Pleasant may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this section. The Village of Mt. Pleasant may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Village of Mt. Pleasant, plus interest at the rate authorized by Village of Mt. Pleasant shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the

amount due on the tax rolls and collect as a special assessment against the property pursuant to Wis. Stats. ch. 66, subch. VII.

- (6) Any person violating any of the provisions of this section shall be subject to a forfeiture of not less than \$500.00 nor more than \$1,000.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (7) Compliance with the provisions of this section may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(m) *Appeals.*

- (1) *Board of appeals.* The board of appeals of the Village of Mt. Pleasant:
  - a. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village of Mt. Pleasant in administering this section except for cease and desist orders obtained under subsection (1)(3).
  - b. May authorize variances from the provisions of this section which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
  - c. Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (2) *Who may appeal.* Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the Village of Mt. Pleasant affected by any decision of the Village of Mt. Pleasant.

(n) *Severability.* If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

**Secs. 74-235--74-260. Reserved.**

## **ARTICLE V.**

### **FEES**

#### **Sec. 74-261. Purpose.**

The subdivider shall pay to the clerk-treasurer all fees required by this chapter and at the time specified. The purpose of such fees is to assist in defraying the cost of review by the village.  
(Code 1993, § 18.18(1))

#### **Sec. 74-262. Preliminary subdivision plat review.**

(a) The subdivider shall pay to the village a fee as set by the village board, plus a fee as set by the village board for each lot or parcel within the preliminary subdivision plat.

(b) A reapplication fee as set by the village board shall accompany any plat at the time of reapplication for approval of any preliminary plat which has previously been reviewed.  
(Code 1993, § 18.18(2))

#### **Sec. 74-263. Certified survey map review.**

The subdivider shall pay a fee as set by the village board to the clerk-treasurer at the time of application for approval of a preliminary map, and another fee as set by the village board at the time of submittal of the final map.  
(Code 1993, § 18.18(3))

#### **Sec. 74-264. Improvement review and inspection.**

(a) The subdivider shall pay fees based upon estimates or equal to the actual cost, legal work, administration, plan, review inspections and engineering review of plans for any subdivision. Such fees shall be paid to the clerk-treasurer at the times specified in the subdivider's agreement.

(b) Fees may be recomputed, upon demand of the subdivider or village, after completion of improvement construction in accordance with the actual cost of services provided and the difference, if any, shall be paid by, or remitted to, the subdivider.  
(Code 1993, § 18.18(4))

#### **Sec. 74-265. Final plat review.**

(a) The subdivider shall pay to the clerk-treasurer a fee as set by the village board, plus a fee as set by the village board for each lot or parcel within the final plat.

(b) A reapplication fee as set by the village board shall be paid to the clerk-treasurer at the time of a reapplication for approval of any final plat which has previously been reviewed.  
(Code 1993, § 18.18(5))

**Chapters 75--77**

**RESERVED**

## Chapter 78

### TRAFFIC AND VEHICLES\*

\* **Cross References:** Court, ch. 18; law enforcement, ch. 42; offenses and miscellaneous provisions, ch. 54; accumulation of used motor vehicles, § 62-9; streets, sidewalks and other public places, ch. 70.

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
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#### Article I. In General

Sec. 78-1.	State traffic laws adopted.		
Sec. 78-2.	Official traffic signs and signals.		
Sec. 78-3.	Abandoned vehicles.		
Sec. 78-4.	Vehicle impoundment for evidentiary purposes.		
Sec. 78-5.	Railroad trains, locomotive and cars obstructing highways.		
Sec. 78-6.	State traffic violation and vehicle registration program.		
Sec. 78-7.	Violations; penalties.	05-2014	01/13/14
Sec. 78-8.	Enforcement.		
Sec. 78-9.	Neighborhood electric vehicles.		
Sec. 78-10.	Prohibiting the Use of Compression (Jake) Brakes.	14-2014	10/27/14
Secs. 78-11 – 78-40.	Reserved.		

#### Article II. Traffic Schedules Division 1. Generally

Sec. 78-41.	Repealed.	05-2011	09/26/11
Secs. 78-42. – 78-60.	Reserved.		

#### Division 2. Speed

Sec. 78-61.	Limits.
Secs. 78-62 – 78-80.	Reserved.

#### Division 3. Through Streets

Sec. 78-81.	Designated.	06-2011	09/26/11
Secs. 78-82 – 78-100.	Reserved.		

#### Division 4. Stops

Sec. 78-101.	Arterial stop signs designated.	12-2014 01-2015	08/18/14 03/23/15
Secs. 78-102 – 78-120.	Reserved.		

#### Division 5. One-Ways

Sec. 78-121.	Designated.
Secs. 78-122 – 78-139.	Reserved.

#### **Division 6. Parking**

Sec. 78-140.	Relating to declaration of snow emergency and parking regulations.		
Sec. 78-141.	All night parking.		
Sec. 78-142.	Parking restricted.	03-2012	04/23/12
		09-2014	06/09/14
		07-2015	08/10/15
Sec. 78-143.	No parking.		
Sec. 78-144.	Temporary no parking.		
Sec. 78-145.	Restricted travel in parking lanes.		
Sec. 78-146.	Handicapped parking.		
Secs. 78-147 –78-170.	Reserved.		

#### **Division 7. Loading Zones**

Sec. 78-171.	Bus stops; medical vehicles.
Secs. 78-172 -78-190.	Reserved.

#### **Division 8. Weight Limits**

Sec. 78-191.	Designated; exceptions; signs.
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#### **Division 9. U-Turns**

Sec. 78-210.	U-turns prohibited.	01-2013	01/14/13
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**ARTICLE I.**  
**IN GENERAL**

**Sec. 78-1. State traffic laws adopted.**

(a) Except as otherwise specifically provided in this chapter, all provisions of Wis. Stats. chs. 340--348, describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed and procedures for prosecution, are adopted by reference and made a part of this section as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited by this section. Any future amendments, revisions or modifications of statutes incorporated in this section are intended to be made part of this section in order to secure uniform statewide regulation of traffic on the highways, streets and alleys.

(b) In addition to the sections of the Wisconsin Statutes previously adopted, there is also adopted in its entirety Wis. Admin. Code ch. Trans. 305, entitled "Standards for Motor Vehicle Equipment," as it may be amended from time to time.  
(Code 1993, § 7.01)

**Sec. 78-2. Official traffic signs and signals.**

(a) *Direction of procurement, erection and maintenance.* The village administrator or designee shall direct the procurement, erection and maintenance of appropriate standard traffic signs, signals and markings conforming to the rules of the state department of transportation giving such notice of the provisions of this chapter as required by law. Signs shall be erected in such locations and manner as the village board shall determine will best effect the purposes of this chapter and give adequate warning to users of the streets, roads, highways or alleys in question.

(b) *Removal of illegal signs, signals, markings and devices.* The village shall have the authority granted by Wis. Stats. § 349.09, and is hereby directed to order the removal of a sign, signal, marking or device placed, maintained or displayed in violation of this chapter or Wis. Stats. § 346.41. Any charge imposed on a premises for removal of such an illegal sign, signal, marking or device shall be reported to the village board for review and certification at its next regular meeting.  
(Code 1993, § 7.08)

**Sec. 78-3. Abandoned vehicles.**

(a) *Prohibited.*

- (1) No person shall leave any unattended motor vehicle, trailer, semitrailer, mobile home or boat parked upon any public highway, or private or public property for such time and under such circumstances as to cause the

vehicle to reasonably appear to have been abandoned. Except as otherwise provided in this subsection, whenever any vehicle has been left unattended in the village for more than 48 hours, without the permission of the property owner, the vehicle is deemed parked and abandoned and constitutes a public nuisance. A motor vehicle shall not be considered a parked and abandoned motor vehicle when it is out of ordinary public view or when designated as not abandoned by an authorized village official.

- (2) No person shall leave any unattended motor vehicle, trailer, semitrailer, mobile home or boat parked or stopped upon any public highway or public property in such a manner as to jeopardize public safety.

(b) *Impoundment.* Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under subsection (c) of this section, except that if it is deemed by an authorized village representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the village prior to expiration of the impoundment period upon a determination by the chief of police that the vehicle is not stolen or otherwise wanted for evidence or other reason.

(c) *Removal and disposition.*

- (1) Any village police officer or patrolman who discovers any motor vehicle, trailer, semitrailer, mobile home or boat in violation of this section shall cause the vehicle to be removed to a suitable place of impoundment. Upon removal of the vehicle, the officer shall notify the chief of police of the location of the impounded vehicle.
- (2) The owner of any vehicle in violation of this section is responsible for the vehicle and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the village against the owner. Whether or not the village recovers the cost of towing and enforcement, the village shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment. Any amounts recovered in excess of the costs of impounding and disposing of the vehicle, including any citations issued, shall be considered a forfeiture and shall be retained by the village.
- (3) Any vehicle which is in violation of this section and not disposed of under subsection (b) of this section shall be retained in storage for a minimum period of ten days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the motor vehicle, the place where the vehicle is being held and shall inform the owner or any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or

lienholders to exercise their rights to reclaim the vehicle under this subsection shall be deemed a waiver of all rights, title and interest in the vehicle and a consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be sold. The village may dispose of the vehicle by sealed bid or auction sale. If there are more than two such vehicles being offered for sale, such vehicles shall be sold by sealed bid to the highest bidder for all of the vehicles. If the sale is by auction, the highest bid for any such motor vehicle shall be accepted unless the bid is deemed inadequate by an authorized village representative, in which event, all bids may be rejected. If all bids are rejected or no bids are received, the village may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on the vehicles to be sold pursuant to the provisions of this subsection. Upon the sale of such vehicle, the village shall supply the purchaser with a completed form designated by the police department, enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten days to remove the vehicle from the storage area, but shall pay a reasonable storage fee established by the village board for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the village shall be made available to any interested person or organization which makes a written request for such list. The village may charge a fee as set by the village board for the list.

- (4) Within five days after the sale or disposal of a vehicle as provided in this subsection (c) or subsection (b) of this section, the village shall advise the department of transportation of the sale or disposition upon a form supplied by the department of transportation.

(d) *Application of state traffic violation and vehicle registration program.* In addition to the remedies provided in subsection (c) of this section, the village may enforce the provisions of section 78-6 relating to the state traffic violation and vehicle registration program.

(Code 1993, § 7.06(8))

#### **Sec. 78-4. Vehicle impoundment for evidentiary purposes.**

(a) Owners of any vehicle which has been impounded subsequent to an official police investigation and is then released as evidence shall be sent a notice by certified mail. The notice shall contain the year, make, model and serial number of the vehicle, the place where the vehicle is being held and shall inform the owner of his right to reclaim the vehicle.

(b) If the owner does not appear within 48 hours of receipt of such notice, the procedure under section 78-3(c) shall apply.

(Code 1993, § 7.06(9))

#### **Sec. 78-5. Railroad trains, locomotive and cars obstructing highways.**

No person shall stop any railroad train, locomotive or car upon or across any highway or street crossing within the village outside of cities or leave such train, locomotive or car standing upon such crossing for a period of time longer than ten minutes, except in the case of an accident, and any conductor, engineer, brakeman or other person in charge or responsible for such train, locomotive or car, who shall violate this section, shall be subject to a forfeiture of not more than \$25.00.

(Code 1993, § 7.11)

#### **Sec. 78-6. State traffic violation and vehicle registration program.**

(a) *Participation.* The village is a participant in the State of Wisconsin Traffic Violation and Vehicle Registration Program relating to unpaid or otherwise unsatisfied nonmoving traffic citations or any judgments relating thereto which remain unpaid.

(b) *Authorized agency.* The police department is the agency designated by the village as the entity authorized to submit unpaid citation and satisfaction notices to the department of transportation on behalf of the village. The chief of police or his designee is authorized to sign such notices on behalf of the village.

(Code 1993, § 7.12)

#### **Sec. 78-7. Violations; penalties.**

(a) *Generally.* The penalty for a violation of any provision of this chapter shall be a forfeiture and penalty assessment, if required by Wis. Stats. § 757.05, a jail assessment, if required by Wis. Stats. § 302.46(1), a truck driver education assessment, if required by Wis. Stats. § 349.04, a railroad crossing improvement assessment, if required by Wis. Stats. § 346.177, 346.495 or 346.65(4r), and a crime laboratories and drug law enforcement assessment, if required by Wis. Stats. § 165.755, plus any applicable fees prescribed in Wis. Stats. ch. 814, not to exceed the amount of the deposit that the court may accept as provided in Wis. Stats. § 345.37.

(b) *Special local regulations.* The forfeiture for a violation of any local regulation, except parking, shall be as provided in section 1-15.

(c) *Parking.*

- (1) The forfeiture for a violation of the parking regulations in this chapter shall be as provided in Section 1-15 and for offenses described in Wis. Stat. §§ 346.503-346.55, adopted by reference in this chapter, shall be as provided in Wis. Stat. § 346.56.
- (2) In accordance with Wis. Stats. § 345.28(2)(a), a person charged with a nonmoving traffic (parking) violation under this section may mail or pay the amount of the forfeiture to the police department in person. In such case, the citation shall not be filed in court.

- (3) In addition to the amount of forfeiture for a violation of parking ordinances, fees as set by the village shall be assessed, when applicable, for the following: When payment is made after the scheduled court appearance date when no court appearance was made.
- (4) When payment is made following notification to the state department of transportation to suspend or refuse the registration of vehicles under Wis. Stats. § 345.28(4)(a)2., in addition to the fee set forth in subsection (c)(3)a. of this section.

(Code 1993, § 7.15)

#### **Sec. 78-8. Enforcement.**

(a) *Citations.* Citations for all nonmoving traffic violations under this chapter shall conform to Wis. Stats. § 345.28, and shall permit direct mail payment of the applicable minimum forfeiture to the village police department within ten days of the issuance of the citation, in lieu of a court appearance. The issuing officer shall specify on the citation the amount of the applicable forfeiture, as provided by this chapter. The forfeiture for a violation of all nonmoving traffic violations under this chapter shall double if the applicable minimum forfeiture is not paid to the village police department within ten days of the issuance of the citation as set forth in this subsection.

(b) *Petition to reopen judgment.* Whenever a person has been convicted in the state on the basis of a forfeiture of deposit or a plea of guilty or no contest and the person was not informed as required under Wis. Stats. § 345.27(1) and (2), the person may, within 60 days after being notified of the suspension of his operating privilege, petition the court to reopen the judgment and grant him an opportunity to defend on merits. If the court finds that the petitioner was not informed as required under Wis. Stats. § 345.27(1) and (2), the court shall order the judgment reopened. The court order reopening the judgment automatically reinstates the suspended operating privileges.

(c) *Deposits.*

- (1) Any person arrested for a violation of this chapter may make a deposit of money, as directed by the arresting officer, at the police department. Deposits may be brought or mailed to the office of the police department, as directed by the arresting officer. The arresting officer shall notify the arrested person, orally or in writing, that:
  - a. If the person makes a deposit for a violation of a traffic regulation, the person need not appear in court at the time fixed in the citation and the person will be deemed to have tendered a plea of no contest and submitted to a forfeiture and penalty assessment, if required by Wis. Stats. § 757.05, a jail assessment, if required by Wis. Stats. § 302.46(1), a truck driver education assessment, if required by Wis. Stats. § 349.04, a railroad crossing improvement

assessment, if required by Wis. Stats. § 346.177, 346.495 or 346.65(4r), and a crime laboratories and drug law enforcement assessment, if required by Wis. Stats. § 165.755, plus any applicable fees prescribed in Wis. Stats. ch. 814, not to exceed the amount of the deposit that the court may accept as provided in Wis. Stats. § 345.37; and

- b. If the person fails to make a deposit for a violation of a traffic regulation or appear in court at the time fixed in the citation, the court may enter a default judgment finding the person guilty of the offense or issue a warrant for his arrest.

- (2) The amount of the deposit shall be determined in accordance with the state revised uniform state traffic deposit schedule established by the state judicial conference, and shall include court costs, including any applicable fees prescribed in Wis. Stats. ch. 814, any applicable penalty assessment, any applicable jail assessment, any applicable truck driver education assessment, any applicable railroad crossing improvement assessment and any applicable crime laboratories and drug law enforcement assessment. If a deposit schedule has not been established, the arresting officer shall require the alleged offender to deposit the forfeiture established by the village board, which shall include the penalty assessments. Deposits for nonmoving violations shall not include the penalty assessment.

- (3) The arresting officer or the person receiving the deposit shall issue the arrested person a receipt as required by Wis. Stats. § 345.26(3)(b).

(d) *Notice of demerit points.* Every officer accepting a stipulation under the provisions of this chapter shall comply with the provisions of Wis. Stats. §§ 343.28 and 345.26(1)(a), and shall require the alleged violator to sign a statement of notice in substantially the form contained on the traffic citation promulgated under Wis. Stats. § 345.11.

(e) *Forfeitures in treasury.* Any officer accepting deposits or forfeited penalties under this chapter shall deliver amounts to the clerk-treasurer within seven days after receipt thereof. (Code 1993, § 7.16)

## **Sec. 78-9. Neighborhood electric vehicles.**

- (a) *Definitions.*

*A neighborhood electric vehicle (NEV)* means a self-propelled electrically-powered motor vehicle that has successfully completed the Neighborhood Electric Vehicle America Test Program conducted by the Federal Department of Energy and that conforms to the definition and requirements of "low-speed vehicles" under CFR 571.3(b) and 571.500. Electric golf carts are not included in the foregoing definition.

A neighborhood electric vehicle shall be four-wheeled and have a speed range of at least 20 miles per hour and not more than 25 miles per hour on a paved surface and have a gross vehicle weight of less than 3,000 pounds. Neighborhood electric vehicles shall have all of the following specifications:

- i. Headlamps;
- ii. Front and rear turn signals;
- iii. Stop lamps;
- iv. Horn which meets the requirements listed under Wisconsin Statutes (Trans 305.25);
- v. Reflex reflectors; one red on each side as far to the rear as practicable and one red to the rear;
- vi. An exterior mirror mounted on the driver's side and either an exterior mirror on the passenger side or an interior rearview mirror;
- vii. Parking brake;
- viii. A windshield that conforms to the requirements of the federal motor vehicle safety standards on glazing materials (49 CFR 571.205);
- ix. Every windshield on a neighborhood electric vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield (CFR 571.104);
- x. A vehicle identification number (VIN) that complies with federal law as provided in 49 CFR 565;
- xi. A type 1 or type 2 seatbelt assembly conforming to 49 CFR 571.209 and federal motor vehicle standard no. 209 for each designated seating position; and
- xii. Meets the general test conditions under 49 CFR 571.50056.

(b) *Use permitted on village streets only.*

- (1) A licensed individual may operate a neighborhood electric vehicle on those village streets having a posted limit of 35 miles per hour or less, and headlamps must be on during operation.

- (2) A neighborhood electric vehicle may not be used on state or county highways except to cross over these highways while traveling on village streets as stated above. A neighborhood electric vehicle may not cross over any state or county highway that has a posted speed limit greater than 35 miles per hour.

(c) *License.* Neighborhood electric vehicles shall be registered, titled and licensed by the State of Wisconsin.

(d) *Permitted users.* Any person who operates a neighborhood electric vehicle on any village street must hold a valid State of Wisconsin operator's license. The operation of a neighborhood electric vehicle must in all respects comply with Chapter 78 of the Mt. Pleasant Village [Code of] Ordinances.

(e) *Violations; penalties.* Any person convicted of violating any of the provisions of this chapter shall forfeit an amount as provided below:

1. Operating a neighborhood electric vehicle on a state or county highway shall result in a forfeiture of \$30.00 plus costs and penalty assessments.
2. Operating a neighborhood electric vehicle on a village street with a speed limit of 40--45 mph result in a forfeiture of \$30.00 plus costs and penalty assessments.
3. Operating a neighborhood electric vehicle on any state highway, county highway or village street with a speed limit of 50 mph or greater shall result in a forfeiture of \$50.00 plus costs and penalty assessments.

(Ord. No. 5-2008, § 1, 6-9-2008)

#### **Sec. 78-10. Prohibiting the Use of Compression (Jake) Brakes.**

It shall be unlawful for any vehicle equipped with compression brakes (jake brakes) to downshift and release the clutch to utilize the vehicle's engine to slow in order to meet proper speed restrictions within the Village, except in case of extreme emergency. Any person violating the provisions of this section shall be subject to a forfeiture as provided in section 1-15.

**Secs. 78-11--78-40. Reserved.**

**ARTICLE II.**  
**TRAFFIC SCHEDULES**

**DIVISION 1.**  
**GENERALLY**

**Sec. 78-41. Repealed.**

**Secs. 78-42--78-60. Reserved.**

**DIVISION 2.**  
**SPEED**

**Sec. 78-61. Limits.**

(a) The village board determines that the statutory speed limits on certain streets, or portions thereof, are unreasonable, unsafe or imprudent and modifies such speed limits under authority granted by Wis. Stats. § 349.11 and hereby delegates the authority to the public works committee to review and approve amendments to the list of speed limit zones. The public works committee, upon review and recommendation from public safety officials, the engineering department, and the highway department, shall amend the list or may when deemed necessary request the village board to act on specific situations.

(b) The schedule of designated speed zones is on file in the office of the village clerk-treasurer.  
(Code 1993, § 7.02; Ord. No. 7-2009, 2-9-2009)

**Secs. 78-62--78-80. Reserved.**

**DIVISION 3.**  
**THROUGH STREETS\***

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\* **Cross References:** Streets, sidewalks and other public places, ch. 70.

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**Sec. 78-81. Designated.**

(a) In the interest of public safety and pursuant to Wis. Stat. § 349.07, the following streets, or portions thereof, are designated and declared to be through highways:  
None at this time.

(b) Arterial stop signs shall be placed on the streets intersecting the designated through highways set forth in subsection (a) of this section, and each person, before entering such through traffic street, shall be required to bring his vehicle to a stop before entering such street.  
(Code 1993, § 7.03)

**Secs. 78-82--78-100. Reserved.**

## **DIVISION 4.**

### **STOPS**

**Sec. 78-101. Arterial stop signs designated.**

(a) The village board delegates the authority to the public works committee to review and approve amendments to the list of stop sign locations. The public works committee, upon review and recommendation from public safety officials, the engineering department, and the highway department, shall amend the list or may when deemed necessary request the village board to act on specific situations.

(b) The schedule of arterial stop signs is on file in the office of the village clerk-treasurer.  
(Code 1993, § 7.04; Ord. No. 5-2009, 2-9-2009)

**Editors Note:** See Code Comparative Table for derivation.

**Secs. 78-102--78-120. Reserved.**

## **DIVISION 5.**

### **ONE-WAYS**

**Sec. 78-121. Designated.**

Under Wis. Stats. § 349.10, 25th Street between STH 32 and Mead Street and Mead Street between 25th Street and 24th Street are declared to be one-way highways and all vehicles traveling or being operated on 25th Street shall travel or be operated only in an eastbound direction and all vehicles traveling or being operated on that portion of Mead Street shall travel or be operated only in a northbound direction.  
(Code 1993, § 7.05)

**Secs. 78-122--78-139. Reserved.**

## **DIVISION 6.**

### **PARKING**

#### **Sec. 78-140. Relating to declaration of snow emergency and parking regulations.**

- (a) *Declaration of snow emergency and parking regulations.*
  - (1) Whenever snow falls during any 24-hour period to a depth of four inches or more or a situation exists resulting in freezing rain resulting in ice accumulations throughout the village of one-eighth-inch or more, then such storm constitutes a serious public hazard impairing public transportation, public safety, and safe operations within the village and a snow emergency declaration can be issued at any time by either the village administrator, highway foreman or a designated representative.
  - (2) A snow emergency will remain in effect until such time as snowplowing or salting operations have been declared completed by the highway foreman or his/her designated representative.
  - (3) Whenever such emergency is declared, the Police Department shall issue an announcement to not less than two radio or television broadcast stations whose normal operating range includes the village.
- (b) *Parking restrictions.*
  - (1) No person shall park, stop, or leave standing any vehicle upon any public street, highway, or alley within the village as defined in subsection (b) during the emergency except for vehicles loading or unloading of passengers or property and provided that no other parking ordinance is violated for a period not to exceed 30 minutes. The provisions of this paragraph shall not apply to physicians on emergency call.
  - (2) Parking shall be prohibited on the odd-numbered side of the street from 6:00 p.m. of a day before an even-numbered day until 6:00 a.m. of the next day and on the even-numbered side of the street from 6:00 p.m. of a day before an odd-numbered day until 6:00 a.m. of the next day; provided, however, vehicles may be parked for a period of time not longer than three minutes for actual unloading or loading of passengers or not longer than 30 minutes for actual unloading or loading of property where no other regulation restriction parking as to place or time is violated thereby.
  - (3) No person shall park, stop, or leave standing any vehicle upon any cul-de-sac, semi-circular elbow street or similar configuration of street within the portion of the street area that is defined by concentric radii. This

restriction does not apply to the portion of cul-de-sacs constructed to normal roadway widths leading to the circular portion.

- (4) Any vehicle which is illegally parked on any street or alley may be moved by or under the direction of any police officer and the cost of moving and storage of such vehicle shall be added as a cost to the penalty assessed for the illegal parking of such vehicles.

(Ord. No. 16, 2008, 11-24-2008; Ord. No. 17-2008, 11-24-2008)

**Sec. 78-141. All night parking.**

(a) No person shall park, stop or leave standing any motor vehicle, whether attended or unattended, on any of the following streets, for a period of time longer than 30 minutes, between the hours of 2:00 a.m.--6:00 a.m. of any day, when signs are erected in any block giving notice thereof; however, this section shall not apply to the even-numbered side of the street on an even-numbered day and to the odd-numbered side of the street on an odd-numbered day, nor to physicians or ambulances on emergency calls:

21st Street from Clark Street east to the alley east of Howe Street.

22nd Street from Clark Street east to the alley east of Howe Street.

23rd Street from Clark Street east to the alley east of Howe Street.

24th Street from Racine Street east to Mead Street.

24th Street north side from Mead Street east for a distance of 675 feet.

Alvida Court, from Larson Street to Lawndale Avenue.

Athaleen Avenue, from Sheridan Road, west to STH 32.

Bryn Mawr Avenue, from STH 32, east to Lake Michigan.

Clark Street, from 21st Street, south to 23rd Street.

Derby Avenue, from STH 32, east to its end.

Enos Avenue, from Sheridan Road, west to STH 32.

Graceland Avenue, from Sheridan Road, east to STH 32.

Howe Street, from 21st Street, south to 24th Street.

Kenilworth Avenue, from Sheridan Road, east to Lake Michigan.

Lakewood Avenue, from Sheridan Road, west to STH 32.

Lawndale Avenue, from STH 32, east to Lake Michigan.

Marion Avenue, from Enos Avenue, south to Lakewood Avenue.

Maryland Avenue, from Sheridan Road, west to STH 32.

Mead Street, from 21st Street, south to 24th Street.

Plainfield Avenue, from Sheridan Road, west to STH 32.

Pratt Avenue, from Sheridan Road, west to STH 32.

Racine Street, from 21st Street, south to 25th Street.

Richard Avenue, from Sheridan Road, west to STH 32.

Rosalind Avenue, from STH 32, east to Lake Michigan.

Sheridan Road, from the intersection of Larson Street, south to STH 32.

South Lawn Avenue, from Richard Avenue, south to its end.

Vera Court, from Larson Street to Lawndale Avenue.

Walter Avenue, from Sheridan Road, west to STH 32.

(b) The parking, stopping or standing of motor homes, trucks with a gross weight of more than three tons, campers mounted or attached to a motor vehicle and trailers (truck, boat or camping) is prohibited on both sides of the following public streets between the hours of 2:00 a.m.--6:00 a.m., except on Saturdays, Sundays and holidays:

Mariner Drive, 450 feet west of Prairie Drive to 625 feet east of Sunnyslope Drive.

Prairie Drive, from STH 20 to Mariner Drive.

Sunnyslope Drive, 600 feet north of STH 20 to Spring Street.

Wood Road, from STH 11 to Yorkshire Court.

(Code 1993, § 7.06(1); Ord. No. 2-01, § 7.06(1), 7-9-2001; Ord. No. 3-2006, 3-27-2006)

#### **Sec. 78-142. Parking restricted.**

No person shall stop, park or leave standing any vehicle, whether attended or unattended, as follows, when signs are erected in any block giving notice thereof:

Borgardt Road, on both sides of the road, from Spring Street to the north boundary of Haban Park.

Chicory Road, at any time on the north or south side of the road, from STH 32 to a point 950 feet west.

Chicory Road, on the south side of the road, from Knoll Place, west 1,010 feet.

Clark Street, longer than two hours on any day, except Saturdays, Sundays and holidays, on the east side, from 21st Street to 23rd Street.

Commerce Drive, on the west side between the Highway 20 north frontage road and Corporate Drive, Monday through Friday between the hours of 6:00 a.m. and 6:00 p.m.

Corporate Drive, on the south side between Commerce Drive and Fountain Hills Drive, Monday through Friday between the hours of 6:00 a.m. and 6:00 p.m.

Derby Avenue, at any time on either side of the easterly 100 feet of Derby Avenue lying between Sheridan Road and the bank of Lake Michigan.

Eaton Lane, between 7:00 a.m.--3:00 p.m., except Sundays and legal holidays, on the entire west side of Eaton Lane.

Eaton Lane, at any time on the west side of Eaton Lane, from a point 420 feet north of the centerline of Romayne Avenue for a distance of 50 feet south.

Eaton Lane, at any time on the entire circumference of the northernmost cul-de-sac of Eaton Lane.

Fountain Hills Drive, on the west side between the Highway 20 north frontage road and Corporate Drive, Monday through Friday between the hours of 6:00 a.m. and 6:00 p.m.

Graceland Avenue, longer than two hours on any day, except Saturdays, Sundays and holidays, from Sheridan Road to its intersection at Lake Michigan.

Graceland Boulevard, at any time on the north side of Graceland Boulevard, from a point 40 feet west of the city limits of Racine City, eastward to such city limits.

Hickory Grove Avenue, at any time on the north side of Hickory Grove Avenue, beginning 175 feet west of its intersection with Coolidge Avenue, westerly for a distance of 140 feet.

Howe Street, longer than two hours on any day, except Saturdays, Sundays and holidays, from 23rd Street to 24th Street.

Indiana Street, at any time on either side of Indiana Street south of Westway Avenue, to its terminus.

Larson Street, at any time on the south side of Larson Street, from STH 32, easterly to Vera Court, and on the north side, from STH 32, easterly to Lake Michigan.

Lawndale Avenue, for a period of time longer than two hours on any day, except Saturdays, Sundays and holidays, from Sheridan Road, westerly to STH 32.

Newman Road, at any time on the east side of Newman Road, from a point 250 feet south from its intersection with the centerline of CTH C, northerly to such centerline.

Northwestern Court, Mead Street, 25th Street and designated alleys, between the hours of 9:30 p.m.--7:00 a.m. on Northwestern Court for a distance of 900 feet from its intersection with Northwestern Avenue and at any time on the cul-de-sac of Northwestern Court, on the east and west side of Mead Street between 24th Street and 25th Street, and on the north and south side of 25th Street, between Mead Street and Racine Street and in the alleys that are located east of Howe Street from 21st Street, south to 23rd Street, and between Mead Street and Racine Street, from 21st Street, south to 24th Street, and between Racine Street and Clark Street from 21st Street, south to 23rd Street.

Oakes Road, south of STH 20, at any time on the west side of Oakes Road from a point 300 feet north of the northerly most entrance to J.I. Case High School which intersects Oakes Road, to a point 200 feet south of the southerly most entrance to J.I. Case High School which intersects Oakes Road and at any time on the east side of Oakes Road from 7:30 a.m.--4:30 p.m. on Mondays through Fridays, except legal holidays, from a point 300 feet north of the northerly most entrance to J.I. Case High School which intersects Oakes Road, to a point 200 feet south of the southerly most entrance to J.I. Case High School which intersects Oakes Road.

Oakes Road, along both sides from Durand Avenue north to the corporate limits of the City of Racine.

Old Spring Street, along north side from Stuart Road to 100 feet east of Stuart Road.

Phillips Avenue on the west side from a point 390 feet south of Winthrop Avenue to a point 950 feet south and on the east side of Phillips Avenue from a point 170 feet south of Winthrop Avenue to a point 900 feet south.

Prairie Drive, at any time on both sides of the street, from STH 20 to a point of 265 feet north.

Sheridan Road, at any time on the west side of Sheridan Road, from Athaleen Avenue, south to its intersection with Derby Avenue.

Sheridan Road, at any time on the east side of Sheridan Road, from a point 255 feet south from the centerline of Larson Street, northerly to such centerline.

Sheridan Road, longer than two hours on any day, except Saturdays, Sundays and holidays, from Larsen Street, southerly to Lawndale Avenue.

Summerset Drive, at any time on either side of the roadway from its intersection with the south right-of-way line of CTH C, south for a distance of 500 feet, and on either side of Spring Street from its intersection with Summerset Drive, west for a distance of 400 feet.

Sunnyslope Drive, longer than two hours at any time on the east and west sides of Sunnyslope Drive, from a point on the right-of-way of STH 20, north for a distance of 600 feet.

Timber Drive, at any time on both sides of its intersection with STH 31, to a point 200 feet west.

Summerset Drive, within the turnaround tee at its south terminus: Placement of NO PARKING signs within the turnaround tee area at the south terminus of Summerset Drive to restrict parking in the tee where vehicles maneuver to turn around.

Warwick Way, from 9:00 a.m.--9:00 p.m. on the east side of such way, from a point 250 feet south of Washington Avenue to a point 520 feet south of Washington Avenue, and on the west side of Warwick Way from the intersection with Washington Avenue to a point 750 feet south of Washington Avenue.

Wood Road, at any time on the east side of the road from the Ridgewood Care Center driveway, south for 310 feet to the south property line.

Wood Road, at any time on the west side of the road from the north entrance of Park Terrace Condominiums, north for 135 feet; 20 feet south of the north entrance of Park Terrace Condominiums, 20 feet north and south of the south entrance; 20 feet north and south of the remaining driveway of Park Terrace Condominiums; and 20 feet north and south of the north entrance to Park Place Condominiums.

16th Street, at any time on the north side of 16th Street, from STH 31 to Emmertsen Road.

16th Street, at any time on the south side of 16th Street, from a point 943 feet from the centerline of Emmertsen Road to a point 1,027 feet easterly from such centerline.

21st Street, at any time on the south side of 21st Street from its intersection with Racine Street for a distance of 30 feet easterly.

23rd Street, longer than two hours at any time between the hours of 9:00 a.m.--6:00 p.m. of any day, except Sundays and legal holidays, on the south side of 23rd Street starting at

a point 215 feet west of the intersection of 23rd Street and Clark Street, westerly to the Chicago and Northwestern Railway right-of-way.

23rd Street, to a point 215 feet west of the intersection of Clark Street and 23rd Street at any time on the south side of 23rd Street, starting at a point 45 feet west of the intersection of 23rd Street and Clark Street for a distance of 170 feet westerly.

STH 20 North Frontage Road, Placement of NO PARKING signs on the north and south side from the east line of Stuart Road to a point 240 feet east.

STH 32, from a point 300 feet south of 24th Street to 21st Street at any time between the hours of 3:30 p.m.--6:00 p.m. on the west side of the roadway of STH 32, from a point 300 feet south of 24th Street northerly to 21st Street.

STH 32, at any time from Larson Street, northerly to a point 300 feet south of 24th Street. (Code 1993, § 7.06(2); Ord. No. 07-01, § 7.06(2), 11-26-2001; Ord. No. 2-2005, 1-10-2005; Ord. No. 11-2009, 8-10-2009; Ord. No. 12-2009, 9-28-2009)

#### **Sec. 78-143. No parking.**

There shall be no parking on the following streets:

Howe Street, on the east side, from a distance of 110 feet north of 23rd Street to a distance of 145 feet north of 23rd Street.

Kenilworth Avenue, from Sheridan Road to its termination at Lake Michigan.

Plainfield Avenue, from STH 32 to Sheridan Road.

Sheridan Road, from Larson Street to Rosalind Avenue.

24th Street, north from Mead Street, easterly for a distance of 600 feet.  
(Code 1993, § 7.06(3))

#### **Sec. 78-144. Temporary no parking.**

In the judgment of the chief of police, whenever public safety and convenience would be increased by the posting of temporary no parking signs, such signs may be erected; however such signs shall:

- (1) Clearly indicate "Temporary No parking," and be visible to the traffic affected.
- (2) Show the area in which, temporarily, no parking is permitted.
- (3) Be removed no later than 30 days after installation.

(Code 1993, § 7.06(4))

#### **Sec. 78-145. Restricted travel in parking lanes.**

(a) No operator of a motor vehicle may drive upon any portion of a roadway, which is herein identified, where designated as a dedicated parking lane or bicycle lane, marked by either official signs or by an unbroken white line on the pavement, to use such lane for through travel except as permitted in Wis. Stats. ch. 346.

(b) The schedule of streets, or portions thereof, which are painted to identify uses other than a traveled lane, is on file in the office of the village clerk-treasurer.

(c) The village board delegates the authority to the public works committee to review and approve amendments to the list of designated streets. The public works committee, upon review and recommendation from public safety officials, the engineering department, and the highway department, shall amend the list or may when deemed necessary request the village board to act on specific situations.

(Ord. No. 6-2009, 2-9-2009)

**Editors Note:** Ord. No. 6-2009, adopted Feb. 9, 2009, amended § 78-145 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 78-145, pertained to parking lane on Newman Road and derived from Code 1996, § 7.06(6).

#### **Sec. 78-146. Handicapped parking.**

(a) When signs are erected giving notice of reservation of any parking for the handicapped, no person may park, stop or leave standing any vehicle, whether attended or unattended, at any time, unless such vehicle displays a special registration plate issued pursuant to Wis. Stats. § 341.14(1), (1a), (1m) or (1q), or a special identification card issued under Wis. Stats. § 343.51, or vehicles registered in another jurisdiction and displaying a registration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a physically disabled person.

(b) Appropriate signs designating parking for the handicapped shall be installed on the north side of Larson Street, beginning approximately 20 feet from the northeast corner of the intersection of Sheridan Road and Larson Street, and extending a distance of 66 feet.

(Code 1993, § 7.06(7))

#### **Secs. 78-147--78-170. Reserved.**

## **DIVISION 7.**

### **LOADING ZONES\***

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\* **Cross References:** Off-street loading and unloading spaces, § 90-1014.

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#### **Sec. 78-171. Bus stops; medical vehicles.**

(a) *Bus stops.* On all streets where a license has been granted to operate motorbuses for the transportation of passengers, bus stops for the loading and unloading of passengers shall be established by the party providing the bus service. Motorbuses shall stop at such bus stops for the purpose of loading and unloading and shall not load or unload passengers at any other place unless, in the judgment of the driver, it would be unsafe to load or unload passengers at the designated bus stop.

(b) *Medical vehicles.* In the judgment of the village board, whenever public safety and convenience would be increased by the posting of "No Parking--Loading Zone" signs for the loading and unloading of medical patients by medical vehicle personnel, such signs may be erected for as long as required. When signs are erected in any block of the following streets giving notice thereof, no person shall stop, park or leave standing any vehicle, whether attended or unattended, on the following streets:

Graceland Boulevard, on the north side of the road for 25 feet in front of the Imperial Apartments located at 5000 Graceland Boulevard.

Howe Street, on the southerly lot line of 2116 Howe Street, during the hours of 7:00 a.m.-9:00 a.m. and 3:00 p.m.--5:00 p.m. on Mondays through Fridays.

(c) *Parking restricted.* No person shall park a motor vehicle at any time within 50 feet of an authorized bus stop sign.  
(Code 1993, § 7.06(5))

**Secs. 78-172--78-190. Reserved.**

## **DIVISION 8.**

### **WEIGHT LIMITS**

#### **Sec. 78-191. Designated; exceptions; signs.**

(a) Pursuant to Wis. Stats. § 348.17, no person shall operate a vehicle with a gross weight of more than three tons on the following streets:

Chicory Road, from its intersection with Knoll Place, westerly to the city limits of the City of Racine.

Chicory Road, from the intersection of Meachem Road to Lathrop Avenue.

Cozy Acres Road, from its intersection with STH 11, north to the city limits of the City of Racine.

Larson Street, from its intersection with Sheridan Road, east to the lake.

Lawndale Avenue, from its intersection with Sheridan Road, east to the lake.

Newman Road, from STH 38, south to a point 775 feet south of Westmore Drive.

Old Highway 11, from its intersection with State Highway 41 to its east terminus.

Ohio Street, from the intersection with Spring Street, south to the city limits of the City of Racine.

Sheridan Road, from a point 225 feet south of Larson Street, southerly to its intersection with STH 32.

Wood Road, on both sides of the road from the intersection of Durand Avenue, south for a distance of 375 feet.

16th Street, from the city limits of the City of Racine, westerly to the proposed Oakes Road.

(b) The special weight limitation set forth in subsection (a) of this section shall not apply to a person operating a vehicle with a gross weight of more than three tons on such highways when such person is obtaining orders for supplies, or moving or delivering supplies or commodities to or from any place of business or residence fronting on such highway, nor to school buses while transporting students.

(c) Signs shall be erected on or along the highways set forth in subsection (a) of this section so as to give reasonable notice that a special weight limitation is in effect and the nature of the limitation.

(d) Pursuant to Wis. Stats. § 349.15(2), the village designates the following highways as class "B" highways for the purpose of putting into effect the weight limitations set forth in Wis. Stats. § 348.16:

Airline Road, from Spring Street, north to CTH K.

Borgardt Road, from Spring Street, north to Kraut Road.

Braun Road, from Taylor Avenue, west to East Frontage Road.

Chicory Road, from STH 32, west to the village limits.

Emmertsen Road, from 16th Street, north to STH 38.

Francher Road, from CTH H, north to CTH H.

Gittings Road, from Airline Road, west to Fancher Road.

Kraut Road, from CTH K, west to East Frontage Road.

Kraut Road, from its intersection with State Highway 41, east to the Chicago, Milwaukee, Street Paul and Pacific Railroad crossing.

Lathrop Avenue, from CTH KR, north to Taylor Avenue.

Mariner Drive, from its east terminus, west to Prairie Drive.

Newman Road (old STH 11), from STH 31, north to STH 38.

North Sunnyslope Drive, from Spring Street to its southern terminus.

Prairie Drive, from the north property line of the Quality Inn to its north terminus at Mariner Drive.

Sorensen Road, from West Road, west to East Frontage Road.

Spring Street, from Summerset, west to CTH C.

Stuart Road, from STH 20, north to CTH C.

Sunnyslope Drive, from Linderman Avenue, north to its intersection with Mariner Drive.

West Road, from Sturtevant Village limits, north to STH 20.

Wood Road, from CTH KR, north to Taylor Avenue.

90th Street, from CTH KR, north to the Sturtevant Village limits.  
(Code 1993, § 7.07)

## **DIVISION 9.**

### **U-TURNS**

#### **Sec. 78-210. U-turns prohibited.**

U-turns, as defined in 340.01(73r), Stats., shall be prohibited at the locations described in this section. Unless specified otherwise, U-turns shall be prohibited for travel in all directions at such locations. The Village shall cause appropriate signs indicating the prohibitions of this section to be posted at such locations, notifying all impacted directions of travel.

(a) The intersection of Oakes Road and (the Highway 20) North Frontage Road, prohibiting only U-turns from northbound to southbound Oakes Road traffic.

**Chapters 79--81**

**RESERVED**

## Chapter 82

### UTILITIES\*

\* **Cross References:** Any temporary or special ordinances, including but not limited to the joint sewage agreement and related contracts saved from repeal, § 1-8(7); administration, ch. 2; buildings and building regulations, ch. 14; fire hydrants and lanes, § 34-161 et seq.; health and sanitation, ch. 38; licenses and permits, ch. 46; mobile homes, ch. 50; solid waste, ch. 66; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74; wireless facilities, ch. 86; zoning, ch. 90; PUL public or utility lands, § 90-351 et seq.

**State Law References:** Well construction and pump installation, Wis. Admin Code § NR 812.01 et seq.

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 82-1.	Violations; penalties.		
Secs. 82-2 – 82-30.	Reserved.		
<b>Article II. Sewer Use</b>			
Division 1. Generally			
Sec. 82-31.	Definitions.		
Sec. 82-32.	Use of public sewers.		
Sec. 82-33.	Reserved.		
Division 2.			
Administration and Enforcement			
Sec. 82-51.	Right of entry.		
Sec. 82-52.	Disposal of human and liquid waste.	06-2015	07/13/15
Sec. 82-53.	Appeals.		
Sec. 82-54.	Annual audit.		
Sec. 82-55.	Sewer construction and connections.		
Sec. 82-56.	Violations; penalties.		
Secs. 82-57- 82-80.	Reserved.		
Division 3. Prohibited Discharges			
Sec. 82-81.	Enumerated.		
Sec. 82-82.	Special arrangements.		
Sec. 82-83.	New connections and extensions.		
Sec. 82-84.	Illicit discharges and connections.		
Secs. 82-85 – 82-100.	Reserved.		
Division 4. Industrial Waste Control			
Sec. 82-101.	Submission of basic data.		
Sec. 82-102.	Extension of time.		
Sec. 82-103.	Industrial discharges.		
Sec. 82-104.	Control manholes.		
Sec. 82-105.	Measurement of flow.		
Sec. 82-106.	Deductions.		

Sec. 82-107.	Metering of wastes.
Sec. 82-108.	Waste sampling.
Sec. 82-109.	Preliminary treatment and processing facilities.
Sec. 82-110.	Grease, oil and sand interceptors.
Sec. 82-111.	Analyses.
Sec. 82-112.	Submission of information.
Secs. 82-113 –82-130.	Reserved.

#### Division 5. Fees

Sec. 82-131.	Basis.		
Sec. 82-132.	Sewer users.	04-2010	04/12/10
Sec. 82-133.	Sewer service charges.	05-2010	11/22/10
		08-2011	12/12/11
		06-2013	11/25/13
Secs. 82-134 –82-160.	Reserved.		

### Article III. Pretreatment

#### Division 1. Generally

Sec. 82-161.	Purpose; objectives; applicability; enforcement.
Sec. 82-162.	Definitions.
Sec. 82-163.	Abbreviations.
Sec. 82-164.	Violations; penalties.
Secs. 82-165 –82-180.	Reserved.

#### Division 2. Administration and Enforcement

Sec. 82-181.	Slug or accidental discharges.
Sec. 82-182.	Revocation of wastewater discharge permit.
Sec. 82-183.	Notification of violation.
Sec. 82-184.	Show cause hearing.
Sec. 82-185.	Legal action.
Sec. 82-186.	Records retention.
Sec. 82-187.	Operating upsets.
Sec. 82-188.	Annual publication of significant violations.
Sec. 82-189.	Wastewater discharge permits.
Sec. 82-190.	Permittee reporting requirements.
Sec. 82-191.	Monitoring facilities.
Sec. 82-192.	Inspection and sampling.
Sec. 82-193.	Compliance required; availability of records.
Sec. 82-194.	Confidential information.
Sec. 82-195.	Generation of sludges.
Sec. 82-196- 82-220.	Reserved.

#### Division 3. Prohibited Discharges

Sec. 82-221.	Enumerated.
Sec. 82-222.	Controlling categorical pretreatment standards.
Sec. 82-223.	Modification of categorical pretreatment standards.

Sec. 82-224.	Specific pollutant limitations; variances.
Sec. 82-225.	Applicability of state requirements.
Sec. 82-226.	Right of revision.
Sec. 82-227.	Dilution of excessive discharges.
Sec. 82-228.	Prevention of accidental discharges.
Sec. 82-229.	Notice of emergency notification procedure.
Secs. 82-230-82-250.	Reserved.

#### Division 4. Fees

Sec. 82-251.	Purpose.		
Sec. 82-252.	Enumeration.		
Sec. 82-253.	Additional charges.		
Sec. 82-254.-82-290.	Reserved.	07-2014	03/24/14

#### Article IV. Water Services

Sec. 82-291.	Definitions.		
Sec. 82-292.	Requirements; prohibitions.		
Sec. 82-293.	Disconnecting or removing water meters.		
Sec. 82-294.	Industrial buildings, remote metering.		
Sec. 82-295.	Water conservation--Declaration of emergency.		
Sec. 82-296.	Water conservation--Imposition and notice of restrictions during emergency.		
Sec. 82-297.	Penalty for violation.		
Sec. 82-298.	Penalties for nonpayment of invoice; notice.		
Sec. 82-299.	Access to property.		
Sec. 82-300.	Fire hydrants.		
Sec. 82-301.	Recovery for Recalculated Connection Charges.	07-2014	03/24/14

## **ARTICLE I.**

### **IN GENERAL**

#### **Sec. 82-1. Violations; penalties.**

Except as otherwise provided in this chapter, any person found to be in violation of any provision of this chapter, or any rule or regulation promulgated under this chapter, shall be subject to a penalty as provided in section 1-15.  
(Code 1993, § 13.35)

#### **Secs. 82-2--82-30. Reserved.**

## **ARTICLE II.**

### **SEWER USE**

#### **DIVISION 1.**

### **GENERALLY**

#### **Sec. 82-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approving authority* means the sewer and water commission or other designated official of the village or an authorized deputy, agent or representative.

*BOD (denoting biochemical oxygen demand)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at 20 degrees Celsius, expressed as milligrams per liter (mg/l). Quantitative determination of BOD shall be made in accordance with procedures set forth in the Standard Methods.

*Category A* means the sanitary sewer users who discharge normal domestic strength wastewater with concentrations of BOD no greater than 200 mg/l, suspended solids no greater than 250 mg/l and phosphorus no greater than six mg/l.

*Category B* means the sanitary sewer users who discharge wastewater with concentrations in excess of 200 mg/l of BOD, 250 mg/l of suspended solids and six mg/l of phosphorus. Users whose wastewater exceeds the concentration for any one of such parameters shall be in category B.

*Chlorine requirement* means the amount of chlorine, in mg/l, which must be added to sewage to produce a residual chlorine as specified in the Wisconsin Pollutant Discharge Elimination System (WPDES) permit.

*City* means the City of Racine, Racine County, Wisconsin.

*Costs, operation and maintenance*, includes all costs associated with the operation and maintenance of the wastewater collection and treatment facilities, as well as the costs associated with periodic equipment replacement which is necessary for maintaining the capacity and performance of the wastewater and collection and treatment facilities.

*Costs, replacement*, means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the wastewater treatment facility to maintain the capacity and performance for which such facilities were designed and constructed.

*Drain, building*, means the part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

*Easement* means an acquired legal right for the specified use of land owned by others for wastewater conveyance or treatment.

*Garbage* means the residue from the preparation, cooking and dispensing of food and from the handling, storage and sale of food products and produce.

*Garbage, ground*, means the residue from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.

*Grantee* means the village for the projects in which the village receives federal funding.

*Industrial user* means, per the Federal Register, Vol. 43, No. 188, September 27, 1978, quoted as follows:

- (1) Any nongovernmental, nonresidential user of publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

- a. *Division A--Agriculture, Forestry, Fishing.*

- b. *Division B--Mining.*
  - c. *Division D--Manufacturing.*
  - d. *Division E--Transportation, Communications, Electric, Gas and Sanitary Services.*
  - e. *Division I--Services.*
- (2) After applying the sanitary waste exclusion (if the grantee chooses to do so), dischargers in the above divisions having a volume exceeding 25,000 gpd or the weight of BOD, suspended solids or phosphorus equivalent to that weight found in 25,000 gpd of sanitary wastes are considered industrial users. Sanitary wastes are the wastes discharged from residential users.
  - (3) Any nongovernmental user which discharges any wastewater containing toxic pollutants or which has any other adverse effect on the treatment works or receiving waters.
  - (4) A commercial user of an EPA funded individual system.

*Industrial waste* means the wastewater from an industrial process, trade or business as distinct from sanitary sewage.

*Industry, major contributing*, means an industry that has a:

- (1) Flow of 50,000 gallons or more per average workday;
- (2) Flow greater than five percent of the flow carried by the wastewater collection treatment facilities receiving the waste;
- (3) Material in its discharge included on a list of toxic pollutants issued under Wis. Stats. § 283.21(1); or
- (4) Significant impact, either singularly or in combination with other contributory industries, on the wastewater treatment facility or the quality of its effluent.

*Municipality* means the village.

*Natural outlet* means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*Oil, floatable*, means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be

considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

*Parts per million* means a weight-to-weight ratio. The parts per million value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*Person* means any natural person, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

*pH* means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral concentration of  $10^{-7}$ .

*Phosphorus* means the total phosphorus and is expressed in mg/l of P (phosphorus).

*Pollutants, compatible*, means BOD, suspended solids, phosphorus, nitrogen, pH or fecal coliform bacteria, plus additional pollutants identified in the city's WPDES permit for its wastewater treatment facility receiving the pollutants, if such works were designed to treat such additional pollutants and, in fact, does remove such pollutants to a substantial degree.

*Pollutants, incompatible*, means wastewater with pollutants that will adversely affect or disrupt the quality of wastewater treatment if discharged to a wastewater treatment facility.

*Sewage* means the spent water of a person or community. The preferred term is "wastewater."

*Sewage, sanitary*, means a combination of liquid and water-carried wastes discharged from toilets and/or sanitary plumbing facilities.

*Sewer* means a pipe or conduit that carries wastewater or drainage water.

*Sewerage* means the facilities used for the collection, treatment and disposal of wastewater.

*Sewer, building*, means the extension from the building drain to the public sewer or other place of disposal, also known as a house connection or house lateral.

*Sewer, combined*, means a sewer intended to receive both wastewater and stormwater or surface water.

*Sewer, public*, means any publicly owned sewer, storm drain, sanitary sewer or combined sewer.

*Sewer, sanitary*, means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwater, stormwater, and surface water that are not admitted intentionally.

*Sewer service charge* means a charge levied on users of the wastewater collection and treatment facilities to recover annual revenues for debt services, replacement costs, and operation and maintenance expenses of such facilities. The user charge which covers operation and maintenance, and replacement expenses is a part of the sewer service charge.

*Sewer, storm or drain*, means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

*Shall and may*. The term "shall" is mandatory; and the term "may" is permissive.

*Slug* means any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration of flows during normal operation and/or adversely affects the wastewater collection system and/or performance of the wastewater treatment facility.

*Standard Methods* means the examination and analytical procedures in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

*Stormwater runoff* means the portion of rainfall that is drained into the sewers.

*Suspended solids* means the total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in the Standard Methods and referred to as nonfilterable residue.

*User charge* means a charge levied on users of the wastewater collection and treatment facilities for payment of operation and maintenance costs of such facilities.

*Sturtevant* means the Village of Sturtevant, Racine County, Wisconsin.

*Wastewater* means the spent water of a community or person. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

*Wastewater collection facilities* and *wastewater collection system* mean the structures and equipment required to collect and carry away domestic and industrial wastewater.

*Wastewater, normal domestic strength*, means wastewater with concentrations of BOD no greater than 200 mg/l, suspended solids no greater than 250 mg/l and phosphorus no greater than six mg/l.

*Wastewater treatment facility* means the city's arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Also referred to as wastewater treatment plant.

*Watercourse* means a natural or artificial channel for the passage of water, either continuously or intermittently.

*Water, unpolluted*, means water of a quality equal to or better than the effluent of the wastewater treatment facilities or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities.

*Wisconsin Pollutant Discharge Elimination System (WPDES) permit* means a document issued by the state department of natural resources which establishes effluent limitations and monitoring requirements for the municipal wastewater treatment facility. WPDES permit no. WI-0021130 and modifications thereof pertain to the City of Racine wastewater treatment facility.

(Code 1993, § 13.03)

**Cross References:** Definitions generally, § 1-2.

## **Sec. 82-32. Use of public sewers.**

(a) *Sanitary sewers.* No person shall discharge, or cause to be discharged, any unpolluted water, such as stormwater, groundwater, roof runoff, subsurface drainage or cooling water, to any sanitary sewer. Stormwater runoff from limited areas, which may be polluted at times, may be discharged to the sanitary sewers by permission of the approving authority.

(b) *Storm sewers.* Stormwater, other than that exempted under this section and all other unpolluted drainage, shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the utilities director and other regulatory agencies. Unpolluted industrial cooling water or process water may be discharged to a storm sewer, combined sewer or natural outlet upon approval of the approving authority.

(Code 1993, § 13.04(1), (2))

## **Secs. 82-33--82-50. Reserved.**

## **DIVISION 2.**

### **ADMINISTRATION AND ENFORCEMENT\***

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\* **Cross References:** Administration, ch. 2.

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## **Sec. 82-51. Right of entry.**

(a) *All properties.* The approving authority or other authorized employee of the village, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation or testing in accordance with the provisions of this article and Wis. Stats. § 66.122.

(b) *Private properties through which the village holds a duly negotiated easement.* The approving authority or authorized employee of the village, bearing proper credentials and identification, shall be permitted to enter all private properties through which the village holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within such easement, subject to the terms of such easement.  
(Code 1993, § 13.08)

**Sec. 82-52. Disposal of human and liquid waste.**

(a) No person shall build, erect, maintain, occupy or use any residence, place of business or other building in the village where persons reside, congregate or are employed, without providing, for the use of such occupants, adequate and properly maintained water closets and sinks conforming to the state plumbing code and local plumbing regulations.

(b) The owner or agent of every building in the village used for human habitation, which abuts any street, alley or way along which there is a sewer main, or which is located on a block through which a system of sewerage extends, shall connect with the sewer main, and shall connect all toilets, bathtubs, lavatories, sinks, urinals and similar devices with such sewer in accordance with the state plumbing code and such additional local rules and regulations not inconsistent with such code, provided, however, that no connection shall be required if it is more than 200 feet from the nearest part of the structure containing a plumbing fixture to the sewer main. If any owner or agent fails to comply for more than ten days after notice, in writing, the village may cause such connection to be made, and the expense for such connection shall be assessed as a special tax against the property. Within 30 days after completion of the work, the owner may file a written option with the clerk-treasurer stating he cannot pay such amount in one sum, and asking that it be levied in not to exceed five equal, annual installments, and the amount shall be so collected with interest at the current legal rate per annum from the completion of the work, and the unpaid balance shall be a special tax lien.

(c) No person shall build, erect, construct or maintain any cesspool, septic tank or private system for the disposal of human excreta, liquid waste or water upon any lot or premises abutting any street, alley or way along which there is a sewer main, or which is located on a block through which a system of sewerage extends, unless it is more than 200 feet from the nearest part of the structure containing a plumbing fixture to the sewer main.  
(Code 1993, § 13.02(1))

(d) Exception for Preexisting Residences Abutting Upon New Sewer Mains Extended to Service Specific Developments. When the construction of a section of public sewer main occurs to accommodate a specific new development, those existing residential properties abutting on such public sewer shall not be subject to subsections (b) and (c) above until the earliest of any of the following triggering events occurs: land division; land development, as evidenced by the need to obtain a new zoning permit or approval; septic system failure; or, sale.

### **Sec. 82-53. Appeals.**

(a) Any user, permit applicant or permit holder affected by any decision, action or determination, including cease and desist orders, made by the approving authority interpreting or implementing the provisions of this article, or in any permit issued under this article, may file a written request for reconsideration with the approving authority within ten days of the date of such decision, action or determination, setting forth, in detail, the facts supporting the user's request for reconsideration. The approving authority shall render a decision on the request for reconsideration to the user, permit applicant or permit holder, in writing, within 15 days of receipt of the request. If the ruling on the request for reconsideration made by the approving authority is unsatisfactory, the person requesting reconsideration may, within ten days after notification of the action, file a written appeal with the sewer and water commission of the village.

(b) A fee as set by the village board shall accompany any appeal to the sewer and water commission for their ruling. The fee may be refunded if the appeal is sustained in favor of the appellant.

(c) The written appeal shall be heard by the sewer and water commission within 45 days from the date of filing. The sewer and water commission shall make a final ruling on the appeal within 60 days from the date of filing.  
(Code 1993, § 13.10)

### **Sec. 82-54. Annual audit.**

The village shall conduct an annual audit to maintain the proper proportion between users and user classes of the sewer service charge system and ensure adequate revenues are available to meet operation and maintenance expenses, replacement costs and debt service costs.  
(Code 1993, § 13.11)

### **Sec. 82-55. Sewer construction and connections.**

(a) *Permit required.* No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb the public sewers or appurtenances thereof without first obtaining a written permit from the approving authority.

(b) *Costs and expenses.* All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the person. The person shall indemnify the village from any loss or damage that may, directly or indirectly, be occasioned by the installation of the building sewer.

(c) *Use of old building sewers.* Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the approving authority, to meet all requirements of this article.

(d) *Materials and methods of construction.* The size, slope, alignment and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall conform to the requirements of chapter 14 of this Code or other applicable rules and regulations of the village. In the absence of code provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

(e) *Building sewer grade.* Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(f) *Storm and groundwater drains.*

- (1) No person shall make a connection of a roof downspout, exterior foundation drain, areaway drain or other source of surface runoff or groundwater to a building sewer or building drain which is connected, directly or indirectly, to a sanitary sewer.
- (2) All existing downspouts or groundwater drains, etc., connected, directly or indirectly, to a sanitary sewer, shall be disconnected within 30 days of the date of an official written notice from the approving authority. Exceptions shall be made by the approving authority.

(g) *Conformance required.* The connection of the building sewer into the sanitary sewer shall conform to the requirements of chapter 14 of this Code, other applicable rules and regulations of the village or the procedures in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials shall be approved by the approving authority before installation.

(h) *Connection inspection.* The person making the connection to a public sewer shall notify the approving authority when the building sewer is ready for inspection and connection to the public sewer. The connection shall be inspected and approved by the approving authority.

(i) *Barricades and lights; restoration of disturbed property.* All excavations for a building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the approving authority.

(j) *Sewer connection charges.* There shall be paid to the village and collected by the treasurer on each lot, parcel of land or premises on which a unit or connection charge shall not have been assessed or paid by special assessment or otherwise prior to the time that a permit for and connection is made to the sanitary sewer system of the village, unit connection charges shall be made as follows:

		Shared Revenue	Utility Portion	Combined Connection Fee
(1)	Single-family residential	\$2,000.00	\$1,200.00	\$3,200.00
(2)	Multiunit residential for:			
	First unit	1,250.00	1,200.00	2,450.00
	Second unit	1,250.00	600.00	1,850.00
	Each additional unit	1,250.00	350.00	1,600.00

- (3) All commercial, industrial, private and public institutions shall be charged on a reasonable basis as determined by the village as based on flow and strength, with minimum charge of not less than \$6,600.00 per acre.

Shared Revenue	Utility Portion
\$6,600.00/acre	\$1,800.00*

\* The utility portion for public, commercial and industrial connection fees in addition to \$1,800.00 is subject to the following:

Meter Size (inches)	Capacity (GPM)	Meter Equivalent	Base Rate	Utility \$400	Shared Revenue Portion
5/8	20	1	\$1,800.00	\$ 2,200.00	
3/4	25	1.5		2,400.00	
1	50	2.5		2,800.00	
1 1/2	100	5		3,800.00	
2	160	8		5,000.00	Plus \$6,000.00/acre
3	300	15		7,800.00	
4	500	25		11,800.00	
6	1,000	50		21,800.00	

Total connection fee for commercial and industrial is base rate plus \$400.00 × meter equivalent plus \$6,600.00 per acre.

- (4) The above connection fees are determined pursuant to the Inter-Governmental Sanitary Sewer Service/Revenue Sharing Cooperation and Settlement Agreement dated April 25, 2002, and effective August 1, 2002. (Code 1993, § 13.09; Ord. No. 7-02, 7-22-2002; Ord. No. 12-2004, § 13.09(10), 11-22-2004)

## **Sec. 82-56. Violations; penalties.**

(a) *Delinquent payments of sewer charges.* Except as otherwise provided in this article, any person found to be delinquent in payment of sewer charges shall be subject to a 1.5 percent penalty per month of delinquency.

(b) *Violation notices.* Any person found to be violating any provision of this article, except section 82-55(g), may be served by the village with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction of such violation.

Any such notice shall be given only if deemed necessary by the village. If the notice is given, the offender shall permanently cease all violations within the period stated in such notice. If no notice is given, the village may forthwith proceed with an appropriate action against the offender.

(c) *Accidental discharges.* Any person found responsible for accidentally allowing a deleterious discharge into the sewer system which causes damage to the wastewater collection and treatment facility and/or receiving body of water shall, in addition to a forfeiture, pay an amount to cover any damages, both values to be established by the approving authority.

(d) *Continued violations.* Any person who shall continue any violation beyond the notice time limit provided, if any, or without such notice, upon conviction, shall forfeit not less than \$100.00, nor more than \$500.00, together with the costs of prosecution. In default of payment of such forfeiture and costs, such violator shall be imprisoned in the county jail for a period not to exceed 30 days. Each day in which a violation is continued shall be deemed a separate offense.

(e) *Liability to village for losses.*

(1) Any person violating any provision of this article shall become liable to the village for any expense, loss or damage occasioned by reason of such violation which the village may suffer as a result thereof.

(2) The approving authority shall be notified immediately by any person becoming aware of any violations that occur.

(Code 1993, § 13.16)

**Secs. 82-57--82-80. Reserved.**

### **DIVISION 3.**

#### **PROHIBITED DISCHARGES**

**Sec. 82-81. Enumerated.**

(a) Except as otherwise provided in this article, no person shall discharge, or cause to be discharged, to any public sewer, any of the following described waters or wastes:

(1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

(2) Waters or wastes containing toxic or poisonous solids, liquids or gasses in sufficient quantity, either singly or by interaction with other wastes, that could injure or interfere with any waste treatment or sludge disposal process, constitute a hazard to humans or animals, or create a public nuisance in the receiving waters of the wastewater treatment facility.

- (3) Waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater collection and treatment facilities.
- (4) Any waters or wastes having a pH in excess of 9.0.
- (5) Solid or viscous substances in quantities, or of such size, capable of causing obstruction to the flow in public sewers or other interference with the proper operation of the wastewater collection and treatment facilities, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(b) The following described substances, materials, waters or wastes shall be limited in discharges to municipal sanitary sewer systems to concentrations or quantities which will not harm either the sanitary sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limbs, public properties or constitute a nuisance. The approving authority may set limitations lower than the limitations established in this article if, in his opinion, such more severe limitations are necessary to meet such objectives. In forming his opinion as to the acceptability, the approving authority will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sanitary sewers, the wastewater treatment process employed, capacity of the waste in the wastewater treatment facility and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewers which shall not be violated without approval of the approving authority are as follows:

- (1) Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).
- (2) Wastewater containing more than 25 mg/l of petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin.
- (3) Wastewater from industrial plants containing floatable oil, fat or grease.
- (4) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- (5) Any water or waste containing iron, chromium, copper, zinc and other toxic and nonconventional pollutants to such a degree that any such material received in the composite wastewater in concentration exceeds levels specified by federal, state and local authorities.

- (6) Any water or waste containing odor producing substances exceeding limits which may be established by the approving authority.
- (7) Any radioactive waste or isotope of such half-life or concentration as may exceed limits established by the approving authority in compliance with applicable state or federal regulations.
- (8) Any water or waste containing substances which are not amenable to treatment or reduction by the wastewater treatment process employed or are amenable to treatment only to such a degree that the wastewater treatment facility effluent cannot meet the requirements of other agencies having jurisdiction over discharges to the receiving waters.
- (9) Any water or waste which, by interaction with other waters or wastes in the sanitary sewer system, releases obnoxious gasses, forms suspended solids which interfere with the collection system or creates a condition deleterious to structures and treatment processes.
- (10) Materials which exert or cause:
  - a. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment facility.
  - b. Unusual volume of flow or concentration of wastes, constituting slugs, as defined in section 82-31.
  - c. Unusual concentrations of inert suspended solids, such as, but not limited to, fuller's earth, lime slurries and lime residues, or of dissolved solids, such as, but not limited to, sodium sulfate.
  - d. Excessive discoloration, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (11) Incompatible pollutants in excess of the allowed limits as determined by city, state and federal laws and regulations in reference to pretreatment standards developed by the Environmental Protection Agency and as contained in 40 CFR 403.

(c) The village shall comply with all the city's WPDES permit conditions and all modifications thereof. No discharge shall be allowed into the sanitary sewers that is in violation of the requirements of the WPDES permit and the modifications thereof.

(d) All water or waste entering the system shall be subject to all of the provisions of the wastewater control ordinance of the city.  
(Code 1993, § 13.04(3))

### **Sec. 82-82. Special arrangements.**

No statement contained in this article shall be construed as prohibiting any special agreement between the utilities director and any person whereby a waste of unusual strength or character may be admitted to the wastewater collection and treatment facilities, either before or after pretreatment, provided that there is no impairment of the functioning of the wastewater collection and treatment facilities by reason of the admission of such waste and no extra costs are incurred by the village without recompense by the person, and provided that all rates and provisions set forth in this article are recognized and adhered to.  
(Code 1993, § 13.04(4))

### **Sec. 82-83. New connections and extensions.**

New connections or extensions to the village's sanitary sewer system will be allowed only if there is available capacity in all of the downstream wastewater collection and treatment facilities.  
(Code 1993, § 13.04(5))

### **Sec. 82-84. Illicit discharges and connections.**

(a) *Definitions.* The following definitions shall be applicable in this section:

- (1) *Illicit connection:* Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this section.
- (2) *Person:* Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (3) *Storm drainage system:* Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

(b) *Discharges prohibited.* No person shall discharge, spill or dump substances or materials which are not entirely composed of stormwater into receiving bodies of water or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

(c) *Connections prohibited.* The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this section, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of construction.

(d) *Exemptions.* The following activities are exempt from the provisions of this section unless found to have an adverse impact on the stormwater:

- (1) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.
- (2) Discharges resulting from fire fighting activities.
- (3) Discharges from uncontaminated ground water, potable water source, roof drains, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing and swimming pools if the water has been dechlorinated.

(e) *Enforcement.* Whenever the village finds a person has violated a prohibition or failed to meet a requirement of this section, the village may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The elimination of illicit connections or discharges;
- (2) That violating discharges, practices, or operations shall cease and desist;
- (3) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (4) In the event the person fails to eliminate the illicit connections or discharge, fails to cease and desist in discharges, practices or operations in violation of this section or fails to abate or remediate the stormwater pollution or contamination hazards, that person may be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 for each offense, together with the cost of prosecution. Each day that the violation exists shall constitute a separate offense.
- (5) In the event that an illicit discharge is identified, and emergency clean up action is undertaken by the village, WDNR, or other authority having jurisdiction, the persons may be subject to all associated clean up costs incurred.

(f) *Effective date.* This section shall be in force and effect from and after its adoption and publication. The above section was adopted by the village board of trustees of the Village of Mt. Pleasant on 13th day of June, 2005.  
(Ord. No. 10-2005, 6-13-2005)

**Secs. 82-85--82-100. Reserved.**

#### **DIVISION 4.**

### **INDUSTRIAL WASTE CONTROL**

#### **Sec. 82-101. Submission of basic data.**

(a) Within three months after passage of the ordinance from which of this article is derived, each person who discharges industrial wastes to a public sewer shall prepare and file a report with the approving authority that shall include pertinent data relating to the quantity and characteristics of the wastes discharged to the wastewater collection and treatment facilities. The approving authority may require that such data be provided annually, at a time specified by the approving authority.

(b) Similarly, each person desiring to make a new connection to a public sewer for the purpose of discharging industrial wastes shall prepare and file a report with the approving authority that shall include actual or predicted data relating to the quantity and characteristics of the wastes to be discharged.

(c) The data and reports required by this section shall comply with the city's WPDES permit.  
(Code 1993, § 13.05(1))

#### **Sec. 82-102. Extension of time.**

When it can be demonstrated that circumstances exist which would create an unreasonable burden on the person to comply with the time schedule in section 82-101, a request for an extension of time may be presented to the approving authority for consideration.  
(Code 1993, § 13.05(2))

#### **Sec. 82-103. Industrial discharges.**

If any waters or wastes are discharged, or proposed to be discharged, to the public sewers, which contain substances or possess the characteristics enumerated in section 82-81 and which, in the judgment of the utilities director, have a deleterious effect upon the wastewater collection and treatment facilities, processes, equipment or receiving waters, or which otherwise create a hazard to life, health or constitute a public nuisance, the approving authority may:

- (1) Reject the wastes.
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
- (3) Require control over the quantities and rates of discharge.
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 82-55(j).

(Code 1993, § 13.05(3))

#### **Sec. 82-104. Control manholes.**

(a) Each person discharging industrial wastes into a public sewer shall, at the discretion of the approving authority, construct and maintain one or more control manholes or access points to facilitate observation, measurement and sampling of wastes, including sanitary sewage.

(b) Control manholes or access facilities shall be located and built in a manner acceptable to the approving authority. If measuring and/or sampling devices are to be permanently installed, they shall be of a type acceptable to the approving authority.

(c) Control manholes, access facilities and related equipment shall be installed by the person discharging the waste, at such person's expense, and shall be maintained by the person so as to be in a safe, accessible and proper operating condition at all times. Plans for installation of the control manholes or access facilities and related equipment shall be approved by the utilities director prior to the beginning of construction.

(Code 1993, § 13.05(4))

#### **Sec. 82-105. Measurement of flow.**

The volume of flow used for computing sewer service charges shall be the metered water consumption of the person as shown in the records of meter readings maintained by the water utility, except as noted in section 82-107.

(Code 1993, § 13.05(5))

#### **Sec. 82-106. Deductions.**

If a person discharging industrial waste into the sanitary sewers produces evidence satisfactory to the approving authority that more than 20 percent of the total annual volume of water used for all purposes does not reach the sanitary sewer, then the determination of the water consumption to be used in computing the waste volume discharged into the sanitary sewer may be made a matter of agreement between the approving authority and the person.

(Code 1993, § 13.05(6))

**Sec. 82-107. Metering of wastes.**

(a) Devices for measuring the volume of wastes discharged may be required by the approving authority if the volume cannot otherwise be determined from the metered water consumption records. Metering devices for determining the volume of wastes shall be installed, owned and maintained by the person discharging the wastewater. Following approval and installation, such meters may not be removed without the consent of the approving authority.

(b) An industrial user may request the approval of the approving authority to install a metering device for determining the volume of water discharged. Such requests must be made in writing to the approving authority.

(Code 1993, § 13.05(7))

**Sec. 82-108. Waste sampling.**

(a) Industrial wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration of such wastes. The determination shall be made by the industry as often as may be deemed necessary by the approving authority.

(b) Such samples shall be collected in a manner so as to be representative of the composition of the wastes. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the approving authority.

(c) Installation, operation and maintenance of the sampling facilities shall be the responsibility of the person discharging the waste and shall be subject to the approval of the approving authority. Access to sampling locations shall be granted to the approving authority at all times. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

(Code 1993, § 13.05(8))

**Sec. 82-109. Preliminary treatment and processing facilities.**

Where required, in the opinion of the approving authority, to modify or eliminate wastes that are harmful to the structures, processes or operation of the wastewater treatment facility, the person shall provide, at his expense, such preliminary treatment or processing facilities as may be determined necessary to render his wastes acceptable for admission to the sanitary sewers.

(Code 1993, § 13.05(9))

**Sec. 82-110. Grease, oil and sand interceptors.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the approving authority, they are necessary for the proper handling of liquid wastes containing floatable grease in amounts in excess of the amounts specified in section 82-81(b)(3), or any flammable wastes, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the approving authority and shall be located so as to be readily and easily accessible for cleaning and

inspection. In maintaining such interceptors, the owner shall be responsible for the proper removal and disposal, by appropriate means, of the captured material, and shall maintain records of the dates and means of disposal, which are subject to review by the approving authority. Disposal of the collected materials performed by the owner's personnel or currently licensed waste disposal firms shall be in accordance with currently acceptable rules and regulations of the department of natural resources.  
(Code 1993, § 13.05(10))

#### **Sec. 82-111. Analyses.**

(a) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of the Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and with the federal regulations 40 CFR 136, Guidelines Establishing Test Procedures for Analysis of Pollutants. Sampling methods, locations, times, durations and frequencies are to be determined on an individual basis, subject to approval by the approving authority.

(b) Determination of the character and concentration of the industrial wastes shall be made by the person discharging such wastes, or his agent, as designated and required by the approving authority. The approving authority may also make its own analyses on the wastes, and such determinations shall be binding as a basis for sewer service charges and/or industrial cost recovery charges.  
(Code 1993, § 13.05(11))

#### **Sec. 82-112. Submission of information.**

Plans, specifications and any other pertinent information relating to proposed flow equalization, pretreatment or processing facilities shall be submitted for review of the approving authority prior to the start of the construction of such facilities, if the effluent from such facilities is to be discharged into the public sewers.  
(Code 1993, § 13.05(12))

#### **Secs. 82-113--82-130. Reserved.**

### **DIVISION 5.**

#### **FEEs**

#### **Sec. 82-131. Basis.**

It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the village to levy and collect charges, rentals or rates of service upon all the lands, lots and premises served by having connections with the village sanitary sewerage system and additions, and served by having connections available with

the sanitary sewerage system and additions. The proceeds of such charges, rentals or rates of service shall be used and set aside in separate funds as directed in the ordinance providing for the issuance and sale of \$1,500,000.00 sewerage system mortgage revenue bonds of the village and providing for the payment of such bonds and other details with respect thereto, dated November 9, 1960, and the certain supplement to an ordinance providing for the issuance and sale of \$1,500,000.00 sewerage system mortgage revenue bonds of the village, and providing for the payment of such bonds and other details with respect thereto, dated November 9, 1960, and in accordance with the provisions of Wis. Stats. §§ 66.0621, 66.0821, and the certain agreement made and entered into on January 1, 1977, by and between the city and the village.  
(Code 1993, § 13.06(1))

**Sec. 82-132. Sewer users.**

(a) *Unit assessments.*

- (1) Users of the sewerage system within the village and additions thereto shall be assessed upon the basis of the following units:

Type of User		Charge Units
Single-family dwellings		1
Two-family dwellings		2
House trailers		1
Multiple-family dwellings (three families or more):		
	One-bedroom units, each	75% of 1
	Two-bedroom units, each	80% of 1
	Three- or more bedroom units, each	90% of 1

- (2) Water meters for private water systems measuring cubic feet shall be purchased, installed, maintained by and remain the property of the sewer utility district no. 1, and shall have outside registers so as to permit accessibility for reading the meters by all business, commercial, industrial and public buildings.

- (b) *Metered water consumption.* For the users not falling within any of the categories set forth in subsection (a) (1) of this section, charges will be made according to metered water consumption. However, there shall be a minimum charge of two (2) residential units for each metered user.

(Code 1993, § 13.06(2))

**Sec. 82-133. Sewer service charges.**

- (a) *Method of determination.* Customers in the village shall be billed quarterly, in an amount sufficient to pay the local sewer operating and maintenance costs, including debt service, if any, and the wastewater treatment charges from the city wastewater treatment plant. In

addition, the quarterly billings shall generate sufficient revenue for an equipment replacement fund and a replacement fund for the operation and maintenance of the wastewater collection facilities as required under subsection (e)(2) of this section. Unmetered customers shall be billed at a flat rate based on flow contribution for the user classification. Metered customers shall be billed a flat rate customer service charge and a volumetric charge based on meter readings. Pollutant surcharges billed to the village from the city wastewater treatment plant shall be passed on directly to the specific user. The method for determining the user charge is given in the report entitled, Sewer Service Charge and Industrial Cost Recovery System for Wastewater Collection Facilities and Treatment Services, July 1979. Pertinent sections of the report are included as attachment A, included as part of Ordinance No. 1-93, which is adopted in this section by reference, and is available in the office of the clerk-treasurer.

(b) *Category A.* Category A includes sanitary sewer user who discharge normal domestic strength wastewater with concentrations of biochemical oxygen demand (BOD) no greater than 200 mg/l, suspended solids no greater than 250 mg/l and phosphorus no greater than six mg/l. The sewer service charge for category A wastewater is as follows:

(1)	<i>Customer Service Charge</i>	<i>2014</i>	
	Total customer service	\$10.00	
(2)	<i>Volume Charge</i>	<i>Charge Unit Customer</i>	<i>Metered Customers</i>
	Total volume charge	\$115.00	\$4.52/1,000 gallons
	Total user charge	\$125.00/quarter	\$3.32/100 cubic feet

(c) *Category B.* Category B includes sanitary sewer users who discharge wastewater with concentrations in excess of 200 mg/l of BOD, 250 mg/l of suspended solids or six mg/l of phosphorus. Users whose wastewater exceeds the concentrations for any one of these parameters shall be in category B. The sewer service charge for category B wastewater is as follows:

- (1) Customer service charge: \$10.00, per quarter.
- (2) Volume charge:

Customers	Metered
Total volume charge	\$3.68/1,000 gallons \$2.76/100 cubic feet

- (3) Surcharges:
  - a. BOD = \$208.62/1,000 pounds.
  - b. Suspended solids = \$333.44/1,000 pounds.
  - c. Phosphorus = \$2,737.81/1,000 pounds.

The foregoing surcharges are those charges presently made by the City of Racine; hereafter, such surcharges will be identical to the surcharges established from time to time by the City of Racine.

(d) *Reassignment of sewer users.* The approving authority will reassign sewer users into appropriate sewer service charge categories if wastewater sampling programs and other related information indicate a change of categories is necessary.

(e) *Operation, maintenance and replacement fund accounts.*

(1) The annual replacement revenues shall be maintained in a separate account by the village to be used solely for the purpose of purchasing replacement parts and equipment. Funds may be withdrawn from the account for such uses only with the approval of the approving authority.

(2) All revenues collected for the replacement fund and the operation and maintenance of the wastewater collection facilities must be used solely for the replacement fund and operation and maintenance of the wastewater collection facilities.

(Code 1993, § 13.07; Ord. No. 12-02, 11-25-2002; Ord. No. 11-03, 10-27-2003; Ord. No. 11-2004, § 13.07, 11-22-2004; Ord. No. 1-2006, 1-23-2006; Ord. No. 10-2006, 11-27-2006; Ord. No. 15-2008, 11-13-2008)

**Secs. 82-134--82-160. Reserved.**

### **ARTICLE III.**

#### **PRETREATMENT\***

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\* **Cross References:** Administration, ch. 2.

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#### **DIVISION 1.**

#### **GENERALLY**

**Sec. 82-161. Purpose; objectives; applicability; enforcement.**

(a) This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Racine Wastewater Utility and enables the utility to comply with applicable state and federal laws required by the Clean Water Act of 1977 (PL 95-217) and the general pretreatment regulations (40 CFR 403). The objectives of this article are to:

(1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge.

- (2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere, or otherwise be incompatible with the system.
- (3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system.
- (4) Provide for equitable distribution of the operation and maintenance cost of the utility's implementation of the industrial pretreatment program.

(b) This article provides for the regulation of direct and indirect contributors to the wastewater system through the issuance of permits to certain nondomestic users and enforcement of general requirements for the other users; authorizes monitoring and enforcement activities; requires user reporting; assumes that existing customers' capacity will not be preempted; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article.

(c) This article shall apply to the City of Racine and persons outside such city who are, by contract or agreement with the City of Racine, users of such city's POTW. Except as otherwise provided in this article, the general manager of the City of Racine's POTW shall administer, implement and enforce the provisions of this article.

(Code 1993, § 13.20(1))

## **Sec. 82-162. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act* and *the act* mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Administrator* means the administrator or other duly authorized official of the Environmental Protection Agency.

*Approval authority* means the state department of natural resources.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at a temperature of 20 degrees Celsius, expressed in terms of weight and concentration (milligrams per liter (mg/l)).

*Building sewer* means a sewer conveying wastewater from the premises of a user to the publicly owned treatment works (POTW).

*Categorical standards* and *categorical pretreatment standards* mean the national categorical pretreatment standards or pretreatment standards.

*Chemical oxygen demand (COD)* means the quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in mg/l, as determined in accordance with standard laboratory procedure as set out in the latest edition of the Standard Methods for the Examination of Water and Wastewater.

*City* means the City of Racine or its representatives.

*Consistent removal* means the reduction in the amount of a pollutant or alteration of the nature of a pollutant in the influent to a POTW in accordance with the procedures set forth in 40 CFR 403.7 promulgated pursuant to the act.

*Discharge, accidental*, means a slug flow of material which is sufficient to cause an upset to the utility.

*Discharge, direct*, means the discharge of treated or untreated wastewater directly to the waters of the state.

*Discharge, indirect*, means the discharge or introduction of nondomestic pollutants from any source regulated under 307(b) or (c) of the act (33 USC 1317), into the POTW, including holding tank waste discharged into the system.

*Environmental Protection Agency (EPA)* means the U.S. Environmental Protection Agency or, where appropriate, such term may also be used as a designation for the administrator or other duly authorized official of such agency.

*General manager* means the person designated by the utility to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

*Grab sample* means a sample which is taken from a wastestream on a one-time basis, with no regard to the flow in the wastestream and without consideration of time.

*Industrial user* means a source of an indirect discharge.

*Industrial user, authorized representative of*, means a:

- (1) Principal executive officer of at least the level of vice-president, if the industrial user is a corporation.
- (2) General partner or proprietor, if the industrial user is a partnership or proprietorship, respectively.
- (3) Duly authorized representative of the individual designated in subsections

(1) and (2) of this definition, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

*Interference* means the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the utility's WPDES permit. Such term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the act (33 USC 1345), or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), Clean Air Act, Toxic Substances Control Act or more stringent state criteria, including the criteria contained in any state sludge management plan prepared pursuant to Title IV of the SWDA, applicable to the method of disposal of use employed by the POTW.

*Municipality* means the communities and/or sanitary districts that are served by the utility interceptor sewers and/or utility wastewater treatment plant.

*National Categorical Pretreatment Standards* and *pretreatment standards* mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 307(b) and (c) of the act (33 USC 1347), which applies to a specific category of industrial users.

*National Prohibitive Discharge Standard* and *prohibitive discharge standard* mean any regulation developed under the authority of 307(b) of the act and 40 CFR 403.5.

*New source* means any building, structure, facility or installation from which there is, or may be, a discharge, the construction of which commenced after the:

- (1) Promulgation of categorical pretreatment standards which are applicable to such source; or
- (2) Proposal of categorical pretreatment standards which are applicable to such source, but only if the standards are promulgated within 120 days of the proposal thereof.

*Person* means the state, or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership or other entity, including, but not limited to, an association, commission or any interstate body and, including, any officer, or governing or managing body of any municipality, governmental subdivision, or public or private corporation, or other entity.

*pH* means the logarithm (base ten) of the reciprocal of the concentration of hydrogen ions, expressed in grams per liter of solution.

*Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

*Pollutant, toxic*, means any pollutant, or combination of pollutants, listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of 307(a) of the act or other acts.

*Pollution* means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

*POTW treatment plant* means the portion of the POTW designed to provide treatment of wastewater.

*Pretreatment* and *treatment* mean the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological process; process changes; or other means, except as prohibited by 40 CFR 403.6(d).

*Pretreatment requirements* means any local or state requirements related to pretreatment, other than a categorical pretreatment standard imposed on an industrial user.

*Publicly owned treatment works (POTW)* includes the City of Racine Wastewater Treatment Plant. Such term also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant, and includes any sewer that conveys wastewaters to the POTW from persons outside the City of Racine who are, by contract or agreement with such city, users of the City of Racine POTW.

*Shall; may*. The term "shall" is mandatory; and the term "may" is permissive.

*Slug* means any discharge that has a flow rate or contains a concentration or quantities of pollutants that exceed, for any time period of time longer than 15 minutes, more than five times the user's average 24-hour concentration, quantities or flow during normal operation or which may injure the system.

*Standard Industrial Classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

*Standards, board of*, means a seven-member board appointed by the mayor and confirmed by the city council of the City of Racine to provide information and advise the Racine Wastewater Utility.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Suspended solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by laboratory filtering.

*Upset* means an exceptional incident in which a discharger is unintentionally and temporarily in a state of noncompliance with the standards set forth in this article due to factors beyond the reasonable control of the discharger, excluding noncompliance to the extent caused by operational error, improperly designated treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

*User* means any person who contributes, causes or permits the contribution of wastewater into the utility's POTW.

*User, significant*, means any user of the utility's wastewater disposal system, who has:

- (1) Discharge flow of 10,000 gallons or more on any day of the year;
- (2) In his wastes, toxic pollutants as defined pursuant to Wis. Stats. § 283.21, and rules; or
- (3) A significant impact, as determined by the general manager, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.

*Utility* means the City of Racine Wastewater Utility or its delegated representatives.

*Waste, holding tank*, means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

*Wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which is contributed into, or permitted to enter, the POTW.

*Wastewater discharge permit* means the document issued by the utility to the significant users to set forth the requirements and limitations for the industrial user.

*Water, cooling*, means the water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

*Waters of the state* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state, or any portion thereof.

*Wisconsin Pollutant Discharge Elimination System (WPDES) permit* means any permit or requirement issued by the department of natural resources (DNR) pursuant to the Federal Water Pollution Control Act (33 USC 1251 et seq.), as amended, for the purpose of controlling sewage, industrial wastes or other wastes under the authority of 402 of the act.  
(Code 1993, § 13.20(2))

**Cross References:** Definitions generally, § 1-2.

## **Sec. 82-163. Abbreviations.**

The following abbreviations shall have the designated meanings:

(1)	BOD	Biochemical oxygen demand.
(2)	CFR	Code of Federal Regulations (example: 40 CFR 403 is Title 40 of the Code of Federal Regulations, Part 403).
(3)	COD	Chemical oxygen demand
(4)	EPA	Environmental Protection Agency
(5)	l	Liter
(6)	mg	Milligrams
(7)	mg/l	Milligrams per liter
(8)	POTW	Publicly owned treatment works
(9)	SIC	Standard Industrial Classification
(10)	SWDA	Solid Waste Disposal Act, 42 USC 6901 et seq.
(11)	TSS	Total suspended solids
(12)	USC	United States Code
(13)	WPDES	Wisconsin Pollutant Discharge Elimination System

(Code 1993, § 13.20)

## **Sec. 82-164. Violations; penalties.**

(a) *Civil penalties.* Any industrial user who is found to have violated an order of the board of standards, or who willfully or negligently failed to comply with any provision of this article and orders, rules, regulations and permits issued under this article, shall be subject to a penalty as provided in section 1-15.

(b) *Liability for costs of damage.* Any industrial user violating any of the provisions of this article or which has a discharge which causes a deposit, obstruction, damage or other impairment to the Racine POTW shall become liable to the utility for any expense, loss or damage caused by the violation or discharge. The utility may add to the industrial user's charges and fees the costs assessed for any cleaning, repair or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this article.

(c) *Falsifying information.* Any person who knowingly makes any false statement, representation or certification on any application, record, report, plan or other document filed or required to be maintained pursuant to this article or wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be subject to a penalty as provided in section 1-15.

(Code 1993, § 13.31)

**Secs. 82-165--82-180. Reserved.**

## **DIVISION 2.**

### **ADMINISTRATION AND ENFORCEMENT**

#### **Sec. 82-181. Slug or accidental discharges.**

(a) Industrial users shall immediately notify the utility upon having a slug or accidental discharge of substances or wastewater in violation of this article in order to enable countermeasures to be taken by the utility to minimize damage to the POTW and the receiving waters. The notification shall include the damage to the POTW and receiving waters; location of the discharge; type of waste, concentration and volume; and corrective actions. The utility may choose to immediately take action pursuant to section 82-185.

(b) Within five days following an accidental discharge, the industrial user shall submit a detailed written report to the general manager, describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to persons or property, nor shall such notification relieve the industrial user of any fine, civil penalty or other liability which may be imposed by this article or other applicable law. After receipt and review of the written report, the utility may choose to take no further action or to take action in accordance with sections 82-183, 82-184 and/or 82-185.

(Code 1993, § 13.30(1))

#### **Sec. 82-182. Revocation of wastewater discharge permit.**

(a) Any industrial user who violates this article as follows, or applicable state and federal regulations, is subject to having its permit revoked in accordance with the procedures of this division:

- (1) Failure of an industrial user to factually report the wastewater constituents and characteristics of its discharge;
- (2) Failure of the industrial user to report significant changes in operations or wastewater constituents and characteristics;

- (3) Refusal of reasonable access to the industrial user's premises for the purpose of inspection or monitoring;
- (4) Violation of conditions of the permit; or
- (5) Is found tampering, or to have tampered, with sampling or flow measurement equipment, samples and/or analyses being conducted by, or at the direction of, the utility.

(b) Upon finding a violation, the utility may also suspend the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. If a failure of the industrial user to comply voluntarily with the suspension order occurs, the utility shall take such steps as are deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individual. The utility shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. (Code 1993, § 13.30(2))

#### **Sec. 82-183. Notification of violation.**

Whenever the utility finds that any industrial user has violated, or is violating, this article, the wastewater discharge permit or any prohibition, limitation or requirement contained in this article, the utility may serve a written notice on such user, stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the utility by the industrial user. If the plan is satisfactory to the utility and the industrial user complies with the plan, the utility may not take further action against the industrial user. If the industrial user does not comply with the plan, the utility may take action in accordance with section 82-185. (Code 1993, § 13.30(3))

#### **Sec. 82-184. Show cause hearing.**

(a) *Notice.* The utility may order any industrial user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of standards why the proposed enforcement action should not be taken. A notice shall be served on the industrial user, specifying the time and place of a hearing to be held by the board of standards regarding the violation; the reasons why the action is to be taken; the proposed enforcement action; and directing the industrial user to show cause before the board of standards why the proposed enforcement action should not be taken. At least ten days before the hearing, the notice of the hearing shall be served personally or by registered or certified mail, return receipt requested. The notice of the hearing may be served on any agent or officer of a corporation.

(b) *Hearing officials.* The board of standards may conduct the hearing and take evidence, or may designate any of its members or any officer or employee of the utility to:

- (1) Issue, in the name of the board of standards, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
- (2) Take evidence.
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board of standards for action thereon.

(c) *Transcripts.* At any hearing held pursuant to this article, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(d) *Issuance of orders and directives.* After the board of standards has reviewed the evidence, it shall make a recommendation to the utility. Further orders and directives, as are necessary and appropriate, may be issued by the utility. The utility may act on such recommendation by issuing an order to the industrial user on continued sewer service, as necessary and appropriate. If the user violates an order, the utility may take action in accordance with section 82-185.

(Code 1993, § 13.30(4))

#### **Sec. 82-185. Legal action.**

If any industrial user discharges sewage, industrial wastes or other wastes into the utility's POTW contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the utility, the utility's attorney may commence an action for appropriate legal and/or equitable relief in the appropriate court. The utility may take further action pursuant to sections 82-182 and 82-186.

(Code 1993, § 13.30(5))

#### **Sec. 82-186. Records retention.**

Any industrial user subject to this article shall, for no less than three years, retain and preserve any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by, or on behalf of, an industrial user in connection with its discharge. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the city pursuant to this article shall be retained and preserved by the industrial user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(Code 1993, § 13.30(6))

#### **Sec. 82-187. Operating upsets.**

(a) Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this division or a wastewater discharge

permit issued pursuant to this division shall inform the utility within 24 hours of the first awareness of the commencement of the upset. The utility may choose to immediately take action pursuant to section 82-185. Where such information is given orally, a written followup report thereof shall be filed by the discharger with the utility within five days. The report shall specify:

- (1) A description of the upset, the cause thereof and the upset's impact on the discharger's compliance status.
- (2) The duration of noncompliance, including exact dates and times of noncompliance and, if the noncompliance continues, the time by which compliance is reasonably expected to occur.
- (3) All steps taken, or to be taken, to reduce, eliminate and prevent recurrence of such an upset or other condition of noncompliance.

(b) A documented and verified bona fide operating upset shall be an affirmative defense to any enforcement action brought by the utility against a discharger for any noncompliance with this division or any wastewater discharge permit issued pursuant to this division which arises out of violations alleged to have occurred during the period of the upset. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage persons or property; nor shall such notification relieve the user of any fine, civil penalty or other liability which may be imposed by this article or other applicable law. After receipt and review of the written report, the utility may choose to take no further action or take action in accordance with sections 82-183, 82-184 and/or 82-185.

(Code 1993, § 13.30(7))

#### **Sec. 82-188. Annual publication of significant violations.**

A list of the users which, during the preceding 12 months, were significantly violating applicable pretreatment requirements or standards, shall be published annually in a local newspaper. The term "significant violation" means a violation which remains uncorrected for a period of 45 days after notification of noncompliance, a violation which includes a pattern of noncompliance over a 12-month period or a violation which includes the failure of the user to accurately report noncompliance. The publication shall also summarize any enforcement action taken against the user during such 12-month period.

(Code 1993, § 13.30(8))

#### **Sec. 82-189. Wastewater discharge permits.**

(a) *Required.* All existing significant users shall obtain a wastewater discharge permit as required by this section. All new significant users proposing to connect or contribute to the POTW shall obtain a wastewater discharge permit before connecting, or contributing, to the POTW. All significant users that have facilities in more than one geographic location will be issued separate wastewater discharge permits for each facility.

(b) *Application.*

- (1) Users required to obtain a wastewater discharge permit shall complete and file an application with the utility, in the form prescribed by the utility, and accompanied by a permit fee as specified in section 82-252. Existing significant users shall submit a permit application for a wastewater discharge permit within 90 days after the effective date of the ordinance from which this article is derived, and proposed new significant users shall submit a permit application at least 90 days prior to connecting, or contributing, to the POTW. Existing nonsignificant users who plan to become significant users by changing their wastewater volume and/or characteristics shall submit a permit application at least 90 days before the proposed process wastewater is discharged to the sewerage system. A 180-day baseline report can be submitted for the permit application. Where actual data is not yet available, new users shall submit estimates for the required items. The permit application shall be signed by an authorized representative of the industrial user and certified by a qualified professional. In support of the application, the significant user shall submit the following information, in units and terms appropriate for evaluation:
  - a. Name, address and location, if different from the address.
  - b. SIC number in accordance with the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
  - c. Wastewater constituents and characteristics, including, but not limited to, the standards set forth in this article, as determined by a reliable analytical laboratory. Sampling and analysis, if required by categorical pretreatment standards, shall be performed in accordance with procedures established by the EPA pursuant to 304(h) of the act and contained in 40 CFR 136, as amended. In the case of new industrial users, this subsection shall apply to the projected wastes.
  - d. Times and duration of wastewater contributions.
  - e. Site plans showing all sewer connections and appurtenances to the municipal sanitary sewer system by size and location.
  - f. General description of activities, facilities and plant processes on the premises.
  - g. Nature and concentration of any pollutants in the discharge which are limited by any city, state or National Categorical Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if

not, whether additional operation and maintenance and/or pretreatment is required for the significant user to meet applicable categorical pretreatment standards.

h. Shortest schedule by which the significant user will provide additional pretreatment, if additional pretreatment and/or operation and maintenance will be required to meet the categorical pretreatment standards. The completion date in the schedule shall not be later than the compliance date established for the applicable categorical pretreatment standard. The following conditions shall apply to such schedule:

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the significant user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction, etc.). No increment shall exceed a period of nine months.

2. Not later than 14 days following each date in the schedule and the final date for compliance, the significant user shall submit a report to the general manager, if the significant user has not complied with the increment of progress to be made on such date; the date on which the significant user expects to comply with the increment of progress; the reason for delay; and the steps being taken by the significant user to return the construction to the schedule established.

i. Proposed or actual hours of operation of the pretreatment system.

j. Any other information, as may be requested by the utility, which may be necessary to evaluate the permit application.

(2) The utility will evaluate the data furnished by the significant user and may require additional information. After evaluation and acceptance of the data furnished, the utility may issue a wastewater discharge permit, subject to the terms and conditions provided in this section.

(c) *Modifications.* Within 180 days after the promulgation of an applicable National Categorical Pretreatment Standard, any significant user with an existing wastewater discharge permit shall submit to the general manager the information required by subsection (b) of this

section. Where a significant user, subject to National Categorical Pretreatment Standards, has not previously submitted an application for a wastewater discharge permit as required by subsection (b) of this section, the significant user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standards.

(d) *Conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the utility. Permits may contain the following information:

- (1) Requirements for installation and maintenance of inspection and sampling facilities.
- (2) Requirements for installation and maintenance of pretreatment facilities.
- (3) Requirements for notification to the utility of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (4) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the utility and affording the utility access thereto.
- (5) Requirements for notification of slug discharges per section 82-181.
- (6) Other conditions deemed appropriate by the utility to ensure compliance with this article.

(e) *Duration; changes.* Permits shall be issued for a period of four years. A significant user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the utility during the term of the permit as limitations or requirements identified in division 3 of this article are modified or as other just cause exists. A significant user shall be informed of any proposed change in its permit at least 30 days prior to the effective date of such change. Any change or new condition in the permit shall include a reasonable time schedule for compliance.

(f) *Assignability and transferability.* Wastewater discharge permits are issued to a specific significant user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred or sold to a new significant user.

(g) *Appeal procedure.* A user desiring to appeal to the utility commission regarding a wastewater discharge permit shall file a petition for appeal with the utility commission not more than 20 days after the user receives the wastewater discharge permit or modification thereof. If the user does not file a petition for appeal within such time, the wastewater discharge permit is final.

(Code 1993, § 13.23(1))

## **Sec. 82-190. Permittee reporting requirements.**

(a) *Compliance date report.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new significant user, following commencement of the introduction of wastewater into the POTW, any such user subject to categorical pretreatment standards and pretreatment requirements shall submit a report to the general manager, indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by categorical pretreatment standards and requirements, and the average and maximum daily flow. The report shall state whether the applicable categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance. The statement shall be signed by an authorized representative of the significant user.

(b) *Periodic compliance reports.*

- (1) Any significant user subject to a pretreatment standard, after the compliance date of such categorical pretreatment standard, or, in the case of a new significant user, after commencement of the discharge into the POTW, shall submit a report to the general manager, during the months of June and December, unless required more frequently in the categorical pretreatment standard or by the general manager, indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. At the discretion of the general manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the general manager may agree to alter the months during which the report is to be submitted. In accordance with Wis. Admin. Code ch. NR 101, reports can be used by such users to comply with part of the periodic compliance reports requirement.
- (2) The general manager may impose mass limitations on significant users which are using dilution to meet applicable categorical pretreatment standards or pretreatment requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (b)(1) of this section shall indicate the mass of pollutants regulated by categorical pretreatment standards in the effluent of the significant user. Such reports shall contain the results of sampling and concentration or production and mass where requested by the general manager of pollutants contained therein which are limited by the applicable categorical pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standards. All analyses shall be performed in accordance with procedures established in the Standard Methods for the Examination of Water and Wastewater, 15th edition, 1981, as amended, and/or established by the administrator pursuant to 304(h) of the act and contained in 40 CFR 136, as amended, or with any other test procedures approved by the administrator. Sampling

shall be performed in accordance with the techniques approved by the administrator. (*Comment:* Where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication entitled, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.)

(Code 1993, § 13.23(2))

#### **Sec. 82-191. Monitoring facilities.**

(a) The utility shall require monitoring facilities to be provided and operated, at the industrial user's own expense, in order to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the industrial user's premises, but the utility may, when such a location would be impractical or cause undue hardship on the industrial user, allow the facility to be constructed in the public street or sidewalk area and located so as not to be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility shall be maintained in a safe and proper operating condition at all times, at the expense of the industrial user.

(c) The sampling and monitoring facilities, whether conducted on public or private property, shall be provided in accordance with the utility's requirements and all applicable local construction standards and specifications. Construction of such facilities shall be completed within 90 days following written notification by the utility.

(Code 1993, § 13.23(3))

#### **Sec. 82-192. Inspection and sampling.**

The utility shall inspect the facilities of any industrial user to ascertain whether the purposes of this article are being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the utility or their representative ready access, at all reasonable, times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The utility, DNR and EPA shall have the right to set up on the industrial user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where an industrial user has security measures in force which would require proper identification and clearance before entry into their premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the utility, DNR and EPA will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

(Code 1993, § 13.23(4))

**Sec. 82-193. Compliance required; availability of records.**

(a) Industrial users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the utility shall be provided, operated and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the utility for review and shall be acceptable to the utility before construction of the new facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility, as necessary, to produce an effluent acceptable to the utility under the provisions of this article. Any subsequent change in the pretreatment facilities or method of operation shall be reported, and be acceptable, to the utility prior to the industrial user's initiation of the change.

(b) All records relating to compliance with categorical pretreatment standards shall be made available to officials of the EPA or approval authority, upon request.  
(Code 1993, § 13.23(5))

**Sec. 82-194. Confidential information.**

(a) Information and data on an industrial user, obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections, shall be available to the public and governmental agencies, without restriction, unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the utility, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

(b) When requested, in writing, by the person furnishing a report, trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this article, the Wisconsin Pollutant Discharge Elimination System (WPDES) permit, state disposal system permit and/or the pretreatment programs. Such trade secret or secret process information shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.  
(Code 1993, § 13.23(6))

**Sec. 82-195. Generation of sludges.**

Sludges, floats, skimmings, etc., generated by an industrial or commercial pretreatment system shall not be placed into the Racine POTW. Such sludges shall be contained, transported and disposed of by haulers in accordance with all federal, state and local regulations.  
(Code 1993, § 13.23(7))

**Secs. 82-196--82-220. Reserved.**

### **DIVISION 3.**

#### **PROHIBITED DISCHARGES**

##### **Sec. 82-221. Enumerated.**

(a) No user shall, directly or indirectly, contribute, or cause to be contributed, any pollutant or wastewater which will interfere with the operation or performance of the POTW. Such general prohibitions apply to all users of a POTW, whether or not the users are subject to National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

- (1) Any liquids, solids or gases which, by reason of their nature or quantity, are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion, or be injurious in any other way to the POTW or the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system or at any point in the system, be more than 15 percent, nor any single reading over 30 percent of the lower explosive limit (LEL) of the meter for the specific chemical. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ether, alcohol, ketone, aldehyde, peroxide, chlorate, perchlorate, bromate, carbide, hydride, sulfide and any other substance which the utility, the state or EPA has notified the user is a fire hazard or a hazard to the system.
- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease, particles with sufficient dimensions or quantity, either alone or in combination with other particles, to obstruct the wastewater flow, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metals, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
- (3) Any wastewater entering the municipal sanitary sewer system having a pH less than 5.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.
- (4) Any wastewater entering the municipal sanitary sewer system having a pH in excess of 10.0.

- (5) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in categorical pretreatment standards. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to 307(a) of the act.
- (6) Any noxious or malodorous liquid, gas or solid which, either singly or by interaction with other wastes, is sufficient to create a public nuisance or hazard to life, or is sufficient to prevent entry into the sewers for maintenance and repair.
- (7) Any substance which may cause the POTW's effluent or any other product to the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under 405 of the act, any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state or local criteria applicable to the sludge management method being used.
- (8) Any substance which will cause the POTW to violate its WPDES permit or the receiving water quality standards.
- (9) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (10) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant, resulting in interference, but, in no case, wastewater with a temperature which is lower than 32 degrees Fahrenheit (0 degrees Celsius) or exceeds 150 degrees Fahrenheit (65.6 degrees Celsius) at the discharge point from the source to the sanitary sewer system. The temperature shall not exceed 104 degrees Fahrenheit (40 degrees Celsius) at the POTW wastewater treatment plant.
- (11) Any pollutants, including oxygen demand pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause interference to the POTW and/or which would constitute a slug.
- (12) Any unpolluted water, including, but not limited to, cooling water, stormwater or groundwater.

- (13) Wastewater containing inert suspended solids, such as, but not limited to, Fuller's earth, lime slurries and lime residues, or dissolved solids, such as, but not limited to, sodium chloride and sodium sulfate, in such quantities that would cause interference with the wastewater disposal system.
- (14) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable state or federal regulations.
- (15) Any wastewater which causes a hazard to human life or creates a public nuisance.

(b) When the general manager determines that a user is contributing to the POTW any of the substances enumerated in subsection (a) of this section in such amounts as to interfere with the operation of the POTW, the general manager shall:

- (1) Notify the user and board of standards.
- (2) Develop effluent limits for such user to correct the interference with the POTW.
- (3) Take immediate action, if necessary, to eliminate interference.

(Code 1993, § 13.21(1))

#### **Sec. 82-222. Controlling categorical pretreatment standards.**

Upon the promulgation of the categorical pretreatment standards for a particular industrial subcategory, the categorical pretreatment standards, if more stringent than limitations imposed under this article for sources in the subcategory, shall immediately supersede the limitations imposed under this article. The general manager shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(Code 1993, § 13.21(2))

#### **Sec. 82-223. Modification of categorical pretreatment standards.**

Where the utility's wastewater treatment system achieves consistent removal of pollutants limited by categorical pretreatment standards, the utility may apply to the approval authority for modification of specific limits in the categorical pretreatment standards. If consistent removal of pollutants can be achieved at the POTW, the utility may then modify pollutant discharge limits in the categorical pretreatment standards, if the requirements contained in 40 CFR 403.7 are fulfilled and prior approval from the approval authority is obtained.

(Code 1993, § 13.21(3))

**Sec. 82-224. Specific pollutant limitations; variances.**

(a) No user shall discharge wastewater containing pollutants in excess of the following amounts:

- (1) *Limits.* Limits for flow proportional sampling procedures and batch discharges or grab samples, when necessary:

Total cadmium (no user shall discharge more than 0.1 pounds per day)	0.07 mg/l
Total chromium	14.00 mg/l
Total copper	4.50 mg/l
Total lead	1.38 mg/l
Total mercury	0.10 mg/l
Total nickel	4.10 mg/l
Total zinc	8.40 mg/l

- (2) *Grab samples.*

- a. Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 200 mg/l, as measured by EPA method 413.1, or containing substances which may solidify or become viscous at temperatures between 32--150 degrees Fahrenheit (0--65.6 degrees Celsius).
- b. Total cyanide of 1.9 mg/l.

(b) The general manager shall be able to modify the limitations set forth in subsection (a) of this section as long as such limitations do not violate state or federal laws.

(c) Any variance request for fat, wax, grease or oil limitations as set forth in subsection (a)(2) of this section shall be submitted to the general manager. The variance request shall be based upon the criteria enumerated in 40 CFR 403.13. If a variance is granted, the general manager will have sole discretion on whether to accept alternative testing procedures for the variance.

(Code 1993, § 13.21(4))

**Sec. 82-225. Applicability of state requirements.**

State requirements and discharge limitations shall apply in any case where such requirements and limitations are more stringent than federal requirements and limitations or those set forth in this article.

(Code 1993, § 13.21(5))

**Sec. 82-226. Right of revision.**

The utility reserves the right to establish, by ordinance, more stringent limitations or requirements on discharges to the POTW, if deemed necessary to comply with the objectives presented in section 82-161.  
(Code 1993, § 13.21(6))

**Sec. 82-227. Dilution of excessive discharges.**

No user shall increase the use of process water or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the categorical pretreatment standards or this article.  
(Code 1993, § 13.21(7))

**Sec. 82-228. Prevention of accidental discharges.**

Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's own expense.  
(Code 1993, § 13.21(8))

**Sec. 82-229. Notice of emergency notification procedure.**

A notice advising employees whom to call if a dangerous discharge occurs shall be permanently posted on the industrial user's bulletin board or other prominent place. Employers shall ensure that all employees who may cause such a dangerous discharge to occur, or who may suffer from such a discharge, are advised of the emergency notification procedure.  
(Code 1993, § 13.21(9))

**Secs. 82-230--82-250. Reserved.**

**DIVISION 4.**

**FEES**

**Sec. 82-251. Purpose.**

This division shall provide for the recovery of necessary costs from the users of the utility's POTW for the implementation of the program established in this article. The applicable charges or fees shall be set forth in the utility's schedule of charges and fees, which shall be prepared from time to time by the general manager and approved by the Racine Wastewater Commission. The fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the utility.  
(Code 1993, § 13.22(1))

**Sec. 82-252. Enumeration.**

The utility may adopt charges and fees which may include the following:

- (1) *Permit fee.* The utility will charge users a permit fee at the time permits are issued or reissued.
- (2) *Sampling charge.* The utility will assess the industrial users a sampling charge for sampling their wastewater with utility equipment and manpower.
- (3) *Laboratory analysis charge.* The utility will assess the industrial users a laboratory analysis charge to recover the utility's expenses of having the industrial wastewater samples analyzed for specific pollutants under categorical pretreatment standards or where specifically regulated by the utility.

(Code 1993, § 13.22(2))

**Sec. 82-253. Additional charges.**

Additional costs will be charged to industrial users on a case-by-case basis for the following:

- (1) Fees for filing appeals.
- (2) Fees for consistent removal by the utility of pollutants otherwise subject to categorical pretreatment standards where such removal is an additional cost to the utility.
- (3) Other fees the utility may deem necessary to carry out the requirements contained in this article where there is an additional cost to the utility.

(Code 1993, § 13.22(3))

**Secs. 82-254--82-290. Reserved.**

**ARTICLE IV.**

**WATER SERVICES**

**Sec. 82-291. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Developer* means any person other than the village causing work to be done that requires installation of, construction of or changes to the local water facilities.

*Local water facilities* means water mains that are designed to provide for local water distribution and all related appurtenances and equipment, including, without limitation, fire hydrants, valves, pump stations and water services in the village service area which facilities are owned, operated and maintained by the Racine Utility.

*Racine Water System* means the water system facilities owned and operated by the Racine Utility.

*Racine Utility* means the water utility owned by and a department of the City of Racine.

*Village service area* means the geographical area within which the city and the Racine Utility provide retail water service to the territory of the village and to individual retail customers within such territory, pursuant to the agreement between the village, city and Racine Utility, entitled Intergovernmental Retail Water Service Agreement Between the City of Racine and the Village of Mt. Pleasant, dated May 24, 2004.

(Ord. No. 7-2004, § 13.32(1), 7-26-2004)

**Cross References:** Definitions generally, § 1-2.

## **Sec. 82-292. Requirements; prohibitions.**

(a) No person shall make a new service connection to the Racine Water System or expand a building or change the use of a building or real property in the village without first filing with the village an application for the necessary permits and approvals and submitting the information required to determine the applicability and amount of the connection charge that the village is required by agreement to pay to the City of Racine. Such information shall be submitted to the village on forms provided by the village and shall include, without limitation, the number of bedrooms for each multifamily residential unit and, for all nonresidential uses, the SIC codes for all uses and the maximum potential employee hours for a peak day of operations.

(b) No person shall make a service connection to the Racine Water System without first receiving from the Village a written permit or written approval therefor.

(c) No person shall be authorized by the village to make a service connection to the Racine Water System for any person or property outside of the village service area, except as otherwise provided for by agreement between the village and the city.

(d) No person shall make a service connection to the Racine Water System for any person or for any property outside the village service area, except as otherwise provided by agreement between the village and the city.

(e) No single water user shall use water from the Racine Water System to the extent that the user's average daily water use exceeds 9,000 gallons per day per acre of the user's contiguous land that is served by the Racine Water System without first having made and duly

satisfied any special arrangements or complied with any special requirements specified by the Racine Utility after review of the situation by the Racine Utility.

(f) No person shall construct or install in the village a water main that is less than 12 inches in diameter that is intended to serve multifamily residential, commercial, industrial, institutional or other nonresidential or nonrural land uses; or a water main that is less than eight inches in diameter that is intended to serve single-family or duplex residential or rural land uses that are not multifamily residential, commercial, industrial or institutional in nature, or a new water main that is less than eight inches in diameter that will be part of the local water facilities.

(g) No person shall commence construction or installation of local water facilities without first having received from the Racine Utility written approval of the size and location of all local water facilities, and written approval of all plans and specifications for such facilities. The Racine Utility shall complete its review of plans and specifications for local water facilities within 45 days after receiving them.

(h) All local water facilities shall be constructed and installed in accordance with plans and specifications prepared and sealed by a state registered professional engineer and shall satisfy all applicable standards of the city and/or Racine Utility for water mains and other water facilities to be constructed or installed in the city, and in compliance with all of the rules and regulations imposed by the city and/or Racine Utility with respect to installation and construction standards of water mains and related equipment and appurtenances.

(i) No person retained by the village or by a developer shall perform work on local water facilities without having made, in advance, arrangements with the Racine Utility for construction review of the construction or installation of all local water facilities. The village or the developer, whichever is having the work performed, shall, within 30 days after receipt of an invoice from the Racine Utility, reimburse the Racine Utility for the cost of construction review of the construction or installation of the local water facilities, for which purpose the Racine Utility may retain construction review personnel.

(j) No person that has not been pre-approved to construct and install water facilities in the city shall construct or install local water facilities in the village. The village or the developer shall submit to the Racine Utility the names and addresses of all contractors and subcontractors that will be used in connection with a local water facilities project, including a description of their respective roles in such project, and shall not commence construction or installation on any such project until the Racine Utility approves the project in writing.

(k) The village or the developer, whichever is having the work performed, shall be responsible for paying all costs and fees incurred in connection with the provision of local water facilities, including, without limitation, site or easement acquisition, project review, construction review, engineering, construction, legal services and permitting.

(l) The village or the developer, whichever is having the work performed, shall obtain all authorizations, permits or approvals required for the construction or installation of any local water facilities and all easements or other interests in real property required to construct,

install, maintain, repair and replace any such facilities, and shall be responsible for paying all related costs. All such easements, authorizations, permits and approvals shall be subject to review and approval as to form and content by the Racine Utility in conjunction with the Racine Utility's review of plans and specifications for any local water facilities project.

(m) After completion and testing of each local water facilities project, and review and approval by the Racine Utility (including preparation and approval of as-built plans for the project), the village or the developer, whichever is having the work performed, shall give, grant, dedicate and transfer ownership of the local water facilities to the Racine Utility and shall assign to the Racine Utility any related authorizations, permits and approvals, all free of cost to the Racine Utility or the city and free and clear of any liens or encumbrances that are not accepted in writing by the Racine Utility, and shall assign to the city any related easements or other interests in real property that are required to operate, maintain, repair or replace such facilities, all free of cost to the city and the Racine Utility and free and clear of any encumbrances that are not accepted in writing by the Racine Utility. Upon written notice from the Racine Utility to the village of its acceptance of such local water facilities, the Racine Utility shall own and be responsible for the repair and maintenance of such local water facilities, except when repair or maintenance is required because of acts of the village, the developer or its or their employees, agents or contractors, or their subcontractors.

(n) All local water facilities dedicated and transferred to the Racine Utility shall be warranted by the village and the village's contractor or by the developer and the developer's contractor, whichever is having the work performed and whichever performed the work, to be free of defects or insufficiencies in design, construction or materials for a period of one year from and after the Racine Utility's acceptance in writing of the dedication and transfer of such facilities. The developer shall provide to the Racine Utility a letter of credit or other form of security satisfactory to the Racine Utility, in an amount of ten percent of the total project cost, the form of which is approved by the Racine Utility, to secure such warranty.

(o) No connection to local water facilities shall be permitted by the village until after the dedication and transfer of the local water facilities to the Racine Utility has been accepted in writing by the Racine Utility, with a copy provided to the village, such facilities have become part of the Racine Water System, and a water meter has been installed by the Racine Utility for each such connection.

(p) No work on any local water facilities project shall commence until there has been full compliance with all of the requirements of this article.

(q) The requirements of this article shall be provided for in a written agreement binding upon the village and the village's contractor, or upon the village, developer and the developer's contractor, whichever is having the work performed as between the village and the developer, which agreement shall be enforceable by the city or the Racine Utility and which shall be approved by the Racine Utility prior to commencement of construction or installation.

(r) Upon conviction, any person found to be in violation of this section shall forfeit an amount of not less than \$50.00 nor more than \$500.00. Each day that a violation continues shall be considered a separate offense.  
(Ord. No. 7-2004, § 13.32(2), 7-26-2004)

**Sec. 82-293. Disconnecting or removing water meters.**

No person shall disconnect or remove any water meter from the place where such meter is connected to the Racine Water System without first obtaining written consent from the Racine Utility.  
(Ord. No. 7-2004, § 13.32(3), 7-26-2004)

**Sec. 82-294. Industrial buildings, remote metering.**

(a) No retail water service to an industrial building first being served on or after April 1, 2002, or to any such building that is remodeled or rehabilitated so as to require changes to the water service on or after April 1, 2002, shall be initiated or maintained without installation, operation and maintenance of authorized automatic meter reading (AMR) equipment and a telephone line for the purpose of monitoring all water metering equipment for the building.

(b) The Racine Utility shall not install a water meter for an industrial building covered by this section until the owner or other responsible party (owner) complies with this section. If the owner fails to maintain the monitoring system and/or telephone line associated therewith, the utility may take appropriate action to terminate the water service.  
(Ord. No. 7-2004, § 13.32(4), 7-26-2004)

**Sec. 82-295. Water conservation--Declaration of emergency.**

The Racine mayor and, in his absence, the president of the city waterworks commission, is authorized, empowered and directed to declare the existence of an emergency relating to the Racine Water System's available water supply and to impose restrictions on the use of water during the emergency, following consultation with the village president.  
(Ord. No. 7-2004, § 13.32(5), 7-26-2004)

**Sec. 82-296. Water conservation--Imposition and notice of restrictions during emergency.**

Whenever the Racine mayor or, in his absence, the president of the city waterworks commission or designee has declared the existence of an emergency and imposed reasonable restrictions on the use of water and reasonable notice of such emergency and restrictions has been to the general public, such restrictions shall be in full force and effect in the village. The violation or failure to observe any restriction so imposed shall constitute a violation of this article.  
(Ord. No. 7-2004, § 13.32(6), 7-26-2004)

**Sec. 82-297. Penalty for violation.**

Upon conviction, any person violating any restriction on the use of water imposed pursuant to this article shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00. Each day of violation constitutes a separate offense.  
(Ord. No. 7-2004, § 13.32(7), 7-26-2004)

**Sec. 82-298. Penalties for nonpayment of invoice; notice.**

(a) *Delinquent charges.* All general service-urban, general service-suburban, and private fire protection service customers shall pay invoices of the Racine Utility for such services within 15 days from the date of such invoices; all such customers who fail to pay such invoices within such 15-day period shall pay a penalty as authorized in the latest state Public Service Commission (PSC) rate case. The Racine Utility is authorized to shut off water service upon three days' written notice to the water customer for failure to pay the water invoice within 20 days from the date of the invoicing; the Racine Utility is further authorized to charge a service fee as authorized in the latest PSC rate case for turning on water; all as authorized by the orders of the PSC.

(b) *Notice of delinquency.* The Racine Utility will give notice not later than October 15 of each year to the owner or occupant of each lot or parcel of real estate in the village to which the Racine Utility has furnished retail water service prior to October 1 of that year for which payment is owing and in arrears at the time of giving the notice. The notice shall state the amount in arrears, including any penalty assessed pursuant to the rules of the Racine Utility; and that unless the amount is paid by November 1 a penalty of ten percent of such amount will be added; and that unless the amount in arrears and any added penalty are paid by November 15, the amount in arrears and any added penalty will be levied as a tax against the lot or parcel of real estate to which retail water service was furnished and for which payment is delinquent.

(c) *Certificate of delinquency.* On November 16, or as soon thereafter as is practicable, the Racine Utility shall certify and file with the village clerk-treasurer a list of all lots or parcels of real estate (giving the legal description of each) for which notice of arrears and any added penalty was given and with respect to which an amount in arrears and/or any added penalty remain unpaid, stating the amount of arrears and added penalty. The village clerk-treasurer shall insert the total delinquent amount including any added penalty as a tax against the lot or parcel of real estate. The village shall thereafter take reasonable actions to collect the delinquent amounts, including penalties. Upon collection of any delinquent amounts, including penalties, the village shall promptly pay such amounts to the Racine Utility. The village hereby adopts as a part of this section, Wis. Stats. § 66.0809(3), as though the Racine Utility were a utility operated by the village, for the purpose of carrying out the provisions of this section, and the utility is hereby authorized to give the notice of delinquency.  
(Ord. No. 7-2004, § 13.32(8), 7-26-2004)

**Sec. 82-299. Access to property.**

The village authorizes City of Racine agents, contractors and employees to enter upon private property for the purpose of installing water meters, reading and maintaining water meters, inspecting water meters, inspecting water connections and any other purposes that are associated with the city's discharge of its responsibilities in providing water service to the village, to the fullest extent authorized by law. The village shall fully cooperate, to the extent legally possible, with the city and/or Racine Utility in obtaining any necessary special inspection warrants under Wis. Stats. § 66.0119.

(Ord. No. 7-2004, § 13.32(9), 7-26-2004)

**Sec. 82-300. Fire hydrants.**

(a) *Tampering.* No person shall tamper with, damage or destroy a fire hydrant within the village or use a fire hydrant within the village except governmental officials or employees in the course of their official duties.

(b) *Release of water.* No person, except governmental officials or governmental employees in the course of their official duties or other persons with prior written authorization from the village or from the Racine Utility, shall intentionally release water from or take water from fire hydrants in the village.

(Ord. No. 7-2004, §§ 13.32(10),(11), 7-26-2004)

**Sec. 82-301. Recovery for recalculated connection charges.**

The City of Racine and the Village of Mt. Pleasant have entered into an Intergovernmental Retail Water Service Agreement whereby the Village of Mt. Pleasant is serviced with water from the Racine Water Utility. This agreement allows the Racine Water Utility to recalculate connection charges for commercial and/or industrial users based upon the highest actual recorded water usage during any twelve (12)-month period between the first and the third anniversary date of any connection.

If any recalculated charge exceeds the original connection charge paid by the Village of Mt. Pleasant to the Racine Water Utility, the Racine Water Utility will provide to the Village of Mt. Pleasant written notice of the difference and charge the Village of Mt. Pleasant for the difference.

In the event the Racine Water Utility charges the Village of Mt. Pleasant for any recalculated connection charges, such costs constitute an additional connection charge; and commercial and/or industrial users shall reimburse the Village upon demand by the Village for said charge.

## Chapter 83

### STORMWATER MANAGEMENT

<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
<b>Article I. In General</b>			
Sec. 83-1.	Creation authority.	05-2012	05/14/12
Sec. 83-2.	Rates and charges/appeals procedure.		

## ARTICLE I.

### GENERALLY

#### Sec. 83-1 Creation authority.

(a) *Creation.* There is hereby created and established a stormwater ordinance for the Village of Mount Pleasant. The implementation and oversight of the stormwater ordinance shall be under the supervision of the village engineers.

(b) *Authority.* The village, acting through the stormwater commission, may without limitation due to enumeration, acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities, operations and activities, as are deemed by the village to be proper and reasonably necessary for a system of storm water and surface water management. These facilities may include, without limitation due to enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds, streets, roads, ditches and such other facilities as will support a storm water management system.

(c) *Definitions.* For purposes of this article, the following definitions shall apply:

- (1) *Developed property* means property that has been altered from its natural state by the addition of any improvement, such as a building, structure or impervious surface and where a certificate of occupancy has been issued, or upon completion of construction or final inspection if no such certificate is issued; or where construction of an improvement is at least 50 percent complete and construction is halted for a period exceeding three months.
- (2) *Dwelling unit* means any residential space identified for habitation by the building code. A dwelling unit includes, but is not limited to; single family residences, and two-, three-, or four-family apartments, condominiums, or townhouse living units.
- (3) *Equivalent runoff unit or ERU* is defined as 3,000 square feet of impervious area. The impervious area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.
- (4) *Impervious area or impervious surface* means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, paved streets, driveways, roofs, sidewalks, parking lots, brick pavers and other similar surfaces constructed of impervious materials such as concrete, asphalt, etc. Compacted gravel and clay are not considered impervious areas.

- (5) *Non-residential property* means any developed lot or parcel not exclusively residential as defined herein, including but not limited to, transient rentals (such as hotels and motels), multifamily apartment buildings with more than two units commercial, industrial, institutional, governmental property.
- (6) *Residential property* means any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, manufactured homes, and condominiums. In the case of private ownership of individual residential units existing in multiple family buildings or developments, each dwelling unit shall be assigned a separate ERU.
- (7) *Single family property* means a residential space identified as a habitation with exactly one dwelling unit.
- (8) *Stormwater commission* shall mean five members. Village Trustee Members will be appointed by the Village President and Citizen Members will be appointed by the Village President and confirmed by the Village Board. It is preferred that a majority of the members be Citizens.
- (9) *Undeveloped property* means property which has not been altered from its natural state by the addition of any improvements such as a building, structure, or impervious surface.

(Ord. No. 7-2007, 10-10-2007)

### **Sec. 83-2 Rates and charges/appeals procedure.**

- (a) *Rates and charges.*
  - (1) The basis for computation of the charge for storm water services to all lots and parcels of land within the village is established under this section. The amount of charge to be imposed, the establishment of formulas for the calculation of charges, the creation of customer classifications for the imposition of charges, and changes in such charges, formulas and customer classifications may be made by further resolution of the village board following a recommendation by the storm water commission. All charges established pursuant to this section shall be fair and reasonable. A schedule of current charges shall be maintained on file in the office of the village clerk.
  - (2) Charges shall be imposed to recover all or a portion of the costs of the storm water management activities. Such charges, which shall be established pursuant to further resolution of the village board, may include the following components:

- a. *Base operational charge applied to undeveloped parcels.* A base operational charge will be imposed on all undeveloped properties in the village. The base operational charge is established in recognition of the fact that all properties in the village receive services from the village's storm water management activities and contribute to some degree to the storm water runoff that must be managed by the village. The base operational charge will be assessed to collect a proportionate amount of the operational costs of the storm water management activities from undeveloped properties. The charge per undeveloped parcel will be determined by taking the budgeted annual operational expense of the storm water commission for the storm water management activities and dividing by the total number of real estate parcels in the Village of Mount Pleasant.

*Base Operational Charge Applied to Undeveloped Lots =*

$(\text{Annual Budget Operating Cost}) \div (\text{Total Real Estate Tax Parcels})$

- b. *ERU charge.* An equivalent runoff unit charge (1 ERU) will be imposed on all property containing impervious surface. This ERU charge will fund both the capital and remaining operational costs not recovered from undeveloped parcels. Non-residential properties containing impervious area will be charged multiples of the ERU, but no less than 1 ERU, based on the impervious area of the property.

*ERU Charge (Applied to Parcels containing Impervious Area) =*

$((\text{Total Annual Budgeted ERU Revenue}) - (\text{Revenue recovered from Undeveloped Lots})) \div (\text{Total ERUs})$

- (3) The village board may establish rates and classifications by further resolution as will be likely to provide a reasonable and fair distribution of costs for storm water management. In the event the owner and non-owner users of a particular property are not the same; the liability for the charges attributable to that property shall be that of the owner.
- (4) The charges established will be billed to the customer at the same time and in the same manner as the village tax bill as an additional fee for storm water services. Such charges shall be payable in the same manner as a tax bill. Bills for storm water charges shall be mailed to the owner of the property to which the bill relates. Payment is due with the first tax installment.

- (5) All storm water service charges shall be billed and collected, and shall be a lien upon the property served under the provisions of Wis. Stats. § 66.0809, as amended and/or renumbered.
- (b) *Appeals procedures.*
  - (1) *Adjustments for ERU charges.*
    - a. The village elects not to be subject to the administrative review provisions contained within Wis. Stats. ch. 68, and establishes the following as a complete and final review procedure: As a condition precedent to challenging any storm water utility charge, the charge must be timely paid in full with the property owner's real estate taxes, under protest to the village. Any appeal should be presented in written form to the village engineers and the stormwater commission. The appeal shall specify all grounds for challenge to the amount of the charge and shall state the amount of charge that the appellant considers to be appropriate.
    - b. Requests for adjustments of the ERU's allocated to a parcel of property shall focus upon the calculation of ERU's based upon the amount of impervious area or impervious surface on the property. The village engineers shall have the authority to administer the procedures and standards for the adjustment of ERU's as established in this section.
    - c. A customer may at any time, subject to the conditions herein provided, submit a written request seeking an adjustment of the ERU's allocated to a parcel or property, which shall describe in detail the grounds upon which relief is sought.
    - d. A customer requesting adjustments may be required, at their own expense, to provide supplemental information to the village engineers including, but not limited to, survey data approved by a registered land surveyor. Failure to provide such information within a 30 day time period may result in denial of an adjustment request.
    - e. Following submission of a completed adjustment request and all required information, the village engineers shall have 30 calendar days within which to render a written decision. In considering an adjustment request, the village engineers shall consider whether the calculation of the ERUs for the property are correct.

- f. The village engineers' decision shall be mailed to the address provided on the adjustment request by first class mail and notification shall be complete upon mailing.
- g. Appeal of the village engineers' decision concerning an ERU adjustment request shall be in writing and shall specify the grounds for challenging the village engineers' decision. Appeals shall specifically address the village engineers' conclusions and shall not merely repeat the grounds for the initial adjustment request. Appeals to the storm water commission shall be submitted within 30 calendar days after date of mailing of the village engineers' decision. Failure to timely and properly appeal shall deprive the customer of having the stormwater commission hear the appeal and/or have further action by the zoning board of appeals.
- h. The stormwater commission will review and reply in writing to appeals no later than 30 days after receiving the customer's appeal in writing.
- i. If the appeal is not satisfied at the village engineers' review or the storm water commission review, then the appeal should formally go before the zoning board of appeals. The appellant must issue a letter to the deputy director of planning to schedule a hearing before the zoning board of appeals. A written notice of hearing shall be mailed to the appellant not less than 20 days prior to the actual hearing. The zoning board of appeals shall take evidence at any hearing on appeal which may consist of some or all of the following: sworn testimony and documentary evidence, including but not limited to, learned treatises, public records and other documents the zoning board of appeals desires both relevant and trustworthy. Following the hearing the zoning board of appeals shall mail to appellant, "findings of fact and decision" within five business days following said hearing. This notice shall contain the zoning board of appeals' decision and a short synopsis of the basis for that decision.
- j. Appeals of the zoning board of appeals' decision be determined by the procedures prescribed Wis. Stats. § 62.23(7) (e).
- k. If the result of any appeal or judicial review pursuant to Wis. Stats. § 62.23(7)(e) is that a refund is due, it will be payable by the village to appellant within 30 days of the written determination. Any further resulting adjustment will appear on subsequent bills.

- (2) *Alternative method to collect stormwater charges.* In addition to any other method for collection of the charges established under this article or subsequent resolution, stormwater charges may and are hereby authorized to be levied and imposed on property as a special charge pursuant to Wis. Stats § 66.0627. The mailing of the bill for storm water utility charges to a property owner shall serve as notice to the property owner that failure to pay the charges when due may result in the charges being imposed pursuant to the authority of Wis. Stats. § 66.0627. The procedures contained therein shall govern such notice and further collection procedures.
- (3) *Budget excess revenues.* Stormwater finances shall be accounted for in a separate storm water fund. The stormwater commission shall prepare an annual budget, which shall include all maintenance costs, debt service and other costs related to the operational activities of the stormwater commission. The budget is subject to approval by the village board. The costs shall be spread over the rate classifications as determined by the village board. Any excess of revenues over expenditures in a year will be retained by the fund for subsequent years' needs.
- (4) *Penalty.* A person convicted in the village municipal court (or other municipal court) or the circuit courts of the State of Wisconsin, of violating any provision of this article shall, upon conviction, pay forfeiture not less than \$50.00 and not more than \$1,000.00 for each offense, plus costs and assessments. Each day a violation exists shall constitute a separate offense.

(Ord. No. 7-2007, 10-10-2007)

**Chapters 84 - 85**

**RESERVED**

## Chapter 86

### WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES REGULATORY ORDINANCE\*

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\* **Editors Note:** Ord. No. 10-08, adopted Jul. 14, 2008, amended Ch. 86, §§ 86-1--86-3, in its entirety. Sections 86-101--86-112, of said ordinance, enacted new provisions to read as herein set out. Prior to amendment, Ch. 86 pertained to wireless facilities and derived from Code 1993, § 20.01(1--6).

**Cross References:** Licenses and permits, ch. 46; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; zoning, ch. 90.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
Sec. 86-1.	Findings.		
Sec. 86-2.	Purposes.		
Sec. 86-3.	Definitions.		
Sec. 86-4.	Antennas, accessory uses; permitted.		
Sec. 86-5.	Development of wireless telecommunication sites		
Sec. 86-6.	Landscaping.		
Sec. 86-7.	Access.		
Sec. 86-8.	Certifications and inspections.		
Sec. 86-9.	Maintenance.		
Sec. 86-10.	Abandonment.		
Sec. 86-11.	Compliance required, violations, penalties.		
Sec. 86-12.	Appeals.		

### **Sec. 86-1. Findings.**

(a) The Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("the Act") grants the Federal Communications Commission (FCC) exclusive jurisdiction over:

- (1) The regulation of the environmental effects of radio frequency (RF) emissions from telecommunications facilities; and
- (2) The regulation of radio signal interference among users of the RF spectrum.

(b) The village's regulation of towers and telecommunications facilities in the village will not have the effect of prohibiting any person or entity from providing wireless telecommunications services in violation of the Act.

(Ord. No. 10-08, § 86-101, 7-14-2008)

### **Sec. 86-2. Purposes.**

(a) The general purpose of this chapter is to regulate the placement, construction, and modification of towers and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the village. This chapter is inapplicable to towers and telecommunication facilities existing at the effective date of this chapter until modifications are requested. In the event, any owner/lessee of an already existing tower or telecommunications facility seeks to modify said tower/facility, this chapter shall be applicable.

(b) Specifically, the purposes of this chapter are:

- (1) To regulate the location of towers and telecommunications facilities in the village;
- (2) To protect residential areas and land uses from potential adverse impact of towers and telecommunications facilities;
- (3) To minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- (4) To promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;

- (5) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support antenna and telecommunications facilities;
- (6) To avoid potential damage to property caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound;
- (7) To ensure that towers and telecommunications facilities are compatible with surrounding land uses; and
- (8) To promote public health, safety and welfare by requiring proper setbacks and regulating construction of structures within the fall zone of towers and telecommunications facilities.

(Ord. No. 10-08, § 86-102, 7-14-2008)

### **Sec. 86-3. Definitions.**

The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Antenna* means any exterior transmitting or receiving device mounted on or affixed to a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals. The term "antenna," as used in this article, shall not include residential television antennas, residential satellite dishes 30 inches in diameter or less, amateur radio antennas, municipal CB radio antennas, or other CB radio antennas in conformance with applicable zoning district height regulations. "Earth Station Dish Antennas" and/or "terrestrial" antennas are those satellite signal receiving dishes affixed to a ground support or a structure greater than 30 inches in diameter and less than 42 inches in diameter.

*Antenana support structure* means any building or structure other than a tower which can be used for location of telecommunications facilities.

*Applicant* means any person that applies for a tower and/or telecommunications facility development permit.

*Application* means the process by which the owner of a parcel of land within the village submits a request to develop, construct, build, modify, or erect a tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the village concerning such a request.

*Collocation* means the provision of multiple antennas or more than one commercial wireless communication service provider or government entity on a single tower or structure.

*Engineer* means any engineer licensed by the State of Wisconsin

*FAA* Federal Aviation Administration.

*FCC* Federal Communications Commission.

*Height* means when referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.

*Modifications/modify* means any change, enhancement or improvements to a tower or telecommunications facility that increases the function of the structure, lattice, base support or increase in the amount of antenna or receivers to be affixed to any tower. Routine maintenance, including but not limited to, painting, etc. of the periodic replacement of guy wires shall not be defined as a modification for the purpose of this chapter.

*Owner* means any person with fee title to any parcel of land within the village who desires to develop, or construct, build, modify, or erect a tower upon such parcel of land.

*Person* is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

*Stealth* means any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed or monopole tower designs.

*Telecommunications facilities* means any cables, wires, lines; wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

- (1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
- (2) Any satellite earth station antenna 42 inches or less in diameter, regardless of zoning category.

*Tower* means any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including but not limited to, self-supporting lattice towers, guyed towers, or monopole towers, common-carrier

towers, cellular telephone towers, alternative tower structures, and the like. The term includes the foundation, structure and any support there.  
(Ord. No. 10-08, § 86-103, 7-14-2008)

**Sec. 86-4. Antennas, accessory uses; permitted.**

(a) Antennas, including earth station dish antennas and terrestrial antennas are permitted as accessory uses. Terrestrial antennas may be located in the rear yard or on the roof of the principal structure in all residential districts within the maximum permitted height of the proposed structure. Earth station dish antennas may be located in the rear yard in any residential district subject to an approved "screening" plan. Terrestrial antennas and earth station dish antennas may be located in the side or rear yard or on the roof of the principal structure in all agricultural, business, manufacturing, institutional or park districts subject to the maximum permissible structure height. In addition:

- (1) All Antennas, including earth station dish antennas, shall be manufactured and installed in compliance with Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) regulations and applicable village airport safety zones, and village building and electrical codes.
- (2) Not more than two dish antennas, whether earth station or terrestrial, per dwelling unit shall be permitted on a lot or parcel in a residential zoning district without permission of the village plan commission.
- (3) Earth station dish antennas shall be located and designed to reduce their visual impact on surrounding properties and roadways.
- (4) No form of advertising or identification may be displayed on the dish or framework of all earth station dish other than the customary manufacturer's identification plates, except on an earth station dish that is less than 32 inches in diameter.
- (5) Portable or trailer-mounted antennas are not permitted; with the exception of temporary installation for on-site testing and demonstration purposes for a period not to exceed two days at any one location.
- (6) Ground mounted communication structures, such as radio and television transmission and relay towers, aerials, and radio and television receiving and transmitting antennas, not including ground and building-mounted earth station dish antennas, shall not, in any zoning district, be located less than 1.25 time the height of the structure or tower (whichever is taller) to any lot line. Ground-mounted earth station dish antennas shall not exceed a height of 15 feet. Building-mounted earth station dish antennas shall not

exceed the maximum height regulation of the district in which they are located.

(Ord. No. 10-08, § 86-101, 7-14-2008)

#### **Sec. 86-5. Development of wireless telecommunication sites**

(a) *Background and purpose.* Recent advances in wireless communications technology have resulted in a new generation of telecommunication services. These new services transmit electromagnetic waves of such a frequency and power that will likely require numerous antenna locations. These antennas may be located on buildings, water towers and other similar structures but will also frequently be located on new or conforming existing towers. This requires that the village regulate these wireless communication system facilities in a different manner than conventional television and radio transmission towers, which are able to transmit their signals at much greater distances.

- (1) A number of providers of wireless communication services have recently been licensed by the Federal Communications Commission and additional providers are expected to be licensed in the near future. These firms are expected to pursue antenna sites within the village and these efforts are expected to include requests to construct new communication towers.
- (2) The intent of this proposed regulation is to provide for the establishment and or expansion of wireless telecommunication services within the village while protecting neighborhoods and airport safety zones and minimizing the adverse visual and operational effects of wireless telecommunications facilities through careful design, siting and screening. More specifically this regulation has been developed in order to:
  - a. Maximize use of existing and approved conforming towers and other structures to accommodate new antennas and transmitters in order to reduce the number of communication towers needed to serve the community;
  - b. Encourage providers to co-locate their facilities on a single tower;
  - c. Minimize the location of facilities in visually sensitive areas;
  - d. Encourage creative design measures to camouflage facilities;
  - e. Encourage the use of monopole towers as more eco-friendly and more;
  - f. Protect residential areas from potential adverse impacts of communication towers;

- g. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures; and
- h. Avoid potential for personal injuries to persons in close proximity to supporting structures due to collapse and/or falling ice.

(b) *Location preferences.* The locations for siting the equipment involved in receiving or transmitting electromagnetic waves associated with wireless telecommunication services are listed in the following order of preference.

- (1) On existing structures such as buildings, water towers and utility poles.
- (2) On existing conforming towers that otherwise meet local, state and federal regulations.
- (3) On new towers less than 100 feet in height located in industrial or institutional zones.
- (4) On new towers 100 feet or greater in height located in industrial or institutional zones.
- (5) On new towers less than 100 feet in height located in commercial zones.
- (6) On new towers 100 feet or greater in height located in commercial zones.
- (7) On new towers less than 100 feet in height located in residential zones.
- (8) On new towers 100 feet or greater in height located in residential zones.
- (9) On existing nonconforming towers only when a showing is made that co-location on an existing nonconforming tower is the only physically legitimate option.

(c) *Permitted uses.* The following uses which generally pose minimum adverse visual effect may be permitted upon review by the village planning and zoning department upon a written showing by the applicant demonstrating compliance. Such permitted uses must obtain a building permit, and are subject to the submittal requirements that would meet and obtain "staff" approval established in applicable sections of Code of Ordinances for the Village of Mount Pleasant. A site plan is necessary for a permitted use.

- (1) Wireless telecommunications sites where the antenna is mounted to existing buildings, conforming towers, utility poles, water towers, light standards or other structures provided the following standards are met:

- a. No changes are made to the height of such structure.
- b. No panel antenna shall exceed 72 inches in height and 24 inches in width.
- c. No dish antenna shall exceed three feet in diameter.
- d. All accompanying equipment buildings or boxes shall be screened and fenced as approved by the village as part of the site plan review.
- e. The structure and antenna total height complies with the applicable zoning district height regulations.
- f. The owner of the structure specifically approves the use in writing.

(d) *Uses allowed only by conditional use permit.* Wireless telecommunications sites not otherwise permitted in subsection (c) shall be considered conditional uses in all zoning districts. All wireless telecommunication sites requiring a conditional use permit shall submit a site plan in conformance with the standards below.

(e) *Site plan requirements.* All proposals to develop a wireless telecommunication site shall be subject to the site plan requirements listed below. No tower shall ever be defined or considered a permitted use. Rather towers shall always be defined as conditional uses.

(1) *Permitted use.*

- a. A complete site plan application and checklist with applicable fee as determined by the village board
- b. A plan prepared by a State of Wisconsin licensed civil engineer showing where and how the proposed antenna will be affixed to a building or structure.
- c. Details of all proposed antenna and mounting equipment including size and color.
- d. An elevation of all proposed equipment buildings or boxes and details of all proposed fencing and screening.
- e. A report from a State of Wisconsin licensed civil engineer indicating that the proposed wireless telecommunication site will not interfere with local and regional public safety communications.

(2) *Conditional use permit.*

- a. A complete conditional use application with applicable fee as determined by the village board.
- b. All of the plans and information required for permitted uses in the previous subsection.
- c. A design drawing including cross-section and elevation of all proposed towers. A description of the tower's capacity including the number and type of antennas it can accommodate as well as the proposed location of all mounting positions for co-located antennas and the minimum separation distances between antennas. Where a monopole is proposed the design shall illustrate how the tower will collapse upon itself without encroaching upon any adjoining property line.

Upon request of the plan commission the applicant shall provide a Digital 3D rendering of the proposed wireless telecommunication site within the context of the surrounding area in order to help the commission ascertain the visual impacts associated with such proposal.

- d. An analysis of the fall zone for the proposed tower prepared by a licensed engineer.
- e. Proof that either the applicant or co-applicant holds a bona fide license from the Federal Communications Commission (FCC) to provide the telecommunications services that the proposed tower is designed to support.
- f. A report or letter from the Federal Aviation Administration (FAA) that the proposed tower complies with all airport safety requirements of and for Racine Batten Airport and where applicable Sylvania Airport.
- g. A report from a State of Wisconsin licensed civil engineer that the proposed tower complies with the village airport safety zoning regulations.
- h. A map depicting the extent of the provider's planned coverage within the village and the service area of the proposed wireless telecommunications site.
- i. A map indicating the search radius for the proposed wireless telecommunication site.
- j. Upon request of the plan commission the applicant shall provide a Digital 3D rendering of the proposed wireless telecommunication site within the context of the surrounding area in order to help the commission ascertain the visual impact associated with such proposal.

- k. For towers located in a residential zoning district or within 1,000 feet of a residential zoning district, the applicant shall provide a view shed analysis showing all areas from which the tower would be visible.
- l. Expiration of permit. The approval of an application for conditional use permit shall be void and of no effect unless construction of the project commences within one year and is completed within two years from the date of the approval granted by the village board. For purposes of this regulation, start of construction shall be defined as the installation of a permanent building foundation or slab. The village board may grant up to two six-month extensions of the time to start construction upon written request by the applicant and landowner. The village board shall not approve an extension unless the development plan is brought into conformance with any relevant zoning regulations, which have been amended subsequent to the original approval and unless the applicant provides adequate evidence that construction is able to begin within the extended time period sought. The village board may, as a condition of approval of a conditional use permit, establish a time period that such conditional use permit shall remain in effect.

(f) *Height, setback requirements, and distance to other structures.*

- (1) *Height.* Towers are exempt from all other maximum height restrictions of the districts where located.
  - a. The maximum height of a tower proposed under Section 86 regardless of zoning classification and regardless of whether affixed to a structure or the ground shall be 200 feet including the antenna and all other appurtenances. The height of a tower mounted on a building shall be measured from the average level of the ground along all walls of the building to the tallest point on the tower including the antenna and all other appurtenances.
  - b. The maximum height of any rooftop mounted equipment building or box (including antennas) shall be 15 feet above the roof surface.
- (2) *Setbacks.*
  - a. All towers affixed to the ground shall comply with the following minimum property line setbacks:
    - i. In all zoning districts within the village no wireless radio and television transmission and relay tower, aerials and radio and television receiving and transmitting antennas shall be located closer than 125 percent of the tower's height from any lot line.

ii. All equipment buildings/boxes or equipment areas, which are each 50 square feet or greater in area, shall comply with the minimum property line setbacks for a principal building in the underlying zone. All equipment buildings/boxes or equipment areas which are each less than 50 square feet in area shall comply with the following minimum property line setbacks:

a. Front yard or street yard--Same as for a principal building in the underlying zone.

b. Rear and side yards--15 feet.

All wireless radio and television transmission and relay towers, aerials and radio and television receiving and transmitting antennas mounted or affixed to buildings shall comply with the following:

1. No such facility may be located such that the facilities "fall distance" shall extend over the edge of the structure to which the facility is affixed.

iii. Distance to other structures.

a. For ground mounted/affixed towers.

The village has for years followed the accepted custom, habit and practice based upon the health, safety and welfare of the residents of the village to limit and prevent the location and building of structures within the fall distance of towers. Towers have in the past and will doubtless in the future malfunction, become unsafe and in some instances collapse. Additionally, blowing ice from the structure and appurtenances thereto has caused a hazardous condition. Consequently, within this chapter the village has required that towers constructed upon other structures not be capable of collapsing or falling over the edge of any building.

For ground mounted or affixed towers new structure or building expansion shall be prohibited within a distance of 100 percent of the tower's height to the base of said tower.

(g) *General requirements*

- (1) No wireless telecommunication "tower" (either monopole or lattice and regardless of whether it is a transmitting or receiving tower) shall be located within 500 feet of an existing or proposed residential area denoted on the adopted Comprehensive Land Use and Transportation 2030 Plan.
- (2) No lights shall be mounted on proposed towers unless otherwise required in writing by the FAA.
- (3) Towers not requiring special FAA painting or markings shall be painted a noncontrasting blue or gray.
- (4) Towers may not be used to exhibit any signage or other advertising.
- (5) Any proposed tower shall be designed in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional comparable antenna if the tower is between 50 and 100 feet in height. The plan commission may require the tower to be of such design as to allow for future rearrangement of antennas upon the tower and to accommodate antennas mounted at varying heights.
- (6) Antennas or equipment buildings/boxes mounted to or on buildings or structures shall, to the greatest degree possible, blend with the color and design of such building or structure.
- (7) No proposed wireless telecommunication site shall be designed, located or operated as to interfere with existing or proposed public safety communications.
- (8) No wireless telecommunication site shall be located within a designated floodplain or wetland.
- (9) The design of all wireless telecommunication sites shall comply with the standards promulgated by the FCC for emissions.
- (10) All utilities proposed to serve new wireless telecommunication sites shall be installed underground unless otherwise approved by the plan commission.
- (11) All generators installed in conjunction with any wireless telecommunication site shall comply with all local noise regulations.

(h) *Factors upon which conditional use permit decisions of the plan commission shall be based.* In considering applications for wireless telecommunication sites, the plan commission shall also find:

- (1) In the case where an application for the proposed location of a wireless telecommunication facility is not a preferred site as identified in section 86-105 that the applicant has adequately described the efforts and measures taken to pursue those preferences and why a higher preference location was not technologically, legally or economically feasible. The supplied documentation should evaluate the following factors:
  - a. The planned equipment would cause unacceptable interference with the operation of other existing or planned equipment on an existing or approved tower as documented by a qualified licensed engineer and that the interference cannot be prevented or eliminated at a reasonable cost as determined by the plan commission.
  - b. The planned equipment cannot be accommodated on existing or approved towers due to structural deficiencies as documented by a qualified licensed engineer and that such deficiencies cannot be eliminated at a reasonable cost as determined by the plan commission.
  - c. The existing or planned equipment on an existing or approved tower would cause unacceptable interference with the equipment proposed by the applicant as documented by a qualified licensed engineer and that the interference cannot be prevented or eliminated at a reasonable cost as determined by the plan commission.
  - d. Any restriction or limitation imposed by the FCC.

(Ord. No. 10-08, § 86-105, 7-14-2008)

#### **Sec. 86-6. Landscaping.**

All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the tower, antenna support structure, or telecommunications facilities are located. The village may require landscaping in excess of the requirements in the village Code in order to enhance compatibility with adjacent land uses. Landscaping shall be installed on the outside of any fencing.

(Ord. No. 10-08, § 86-106, 7-14-2008)

#### **Sec. 86-7. Access.**

A parcel of land upon which a tower is located must provide access to at least one paved vehicular parking space on site. Additionally, the parcel of land upon which a tower is located must have approved ingress/egress to a public roadway.

(Ord. No. 10-08, § 86-107, 7-14-2008)

## **Sec. 86-8. Certifications and inspections.**

(a) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the building code and all other construction standards set forth by the village's Code and federal and state law. For new monopole towers, such certification shall be submitted with an application pursuant to section 86-105 of this chapter and every five years thereafter. For existing monopole towers, certification shall be submitted within 60 days of the effective date of this chapter and then every five (5) years thereafter. For new lattice or guyed towers, such certification shall be submitted with an application pursuant to section 86-105 of this chapter and every two years thereafter. For existing lattice or guyed towers, certification shall be submitted within 60 days of the effective date of this chapter and then every two years thereafter. The tower owner may be required by the village to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.

(b) The village or its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the building code and all other construction standards provided by the village Code and federal and state law.

(c) The village reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner. All expenses related to such inspections by the village shall be borne by the tower owner.

(Ord. No. 10-08, § 86-108, 7-14-2008)

## **Sec. 86-9. Maintenance.**

(a) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(b) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

(c) All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.

(d) All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel.

(e) All towers shall maintain compliance with current RF emission standards of the FCC.

(f) In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the village of its intent to discontinue use and the date when the use shall be discontinued.

(Ord. No. 10-08, § 86-109, 7-14-2008)

#### **Sec. 86-10. Abandonment.**

(a) If any tower shall cease to be used for a period of 365 consecutive days, the (village board) shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the (village board) that such site has been abandoned. The owner shall have 30 days from receipt of said notice to show, by a preponderance of the evidence that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the (village board) shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within 75 days, dismantle and remove the tower. If the tower owner fails to remove their facilities within this time frame the village shall remove said facilities and charge the cost of such removal to the property involved pursuant to Wis. Stats. ch. 66.

(b) To secure the obligation set forth in this section, the applicant [and/or owner] shall post a bond in the amount of \$5,000.00 in a form approved by the planning commission. The planning commission may reduce or increase this amount based upon the anticipated cost of removal.

(Ord. No. 10-08, § 86-110, 7-14-2008)

#### **Sec. 86-11. Compliance required, violations, penalties.**

Any person who fails to comply with this chapter or any order of the zoning administrator or planning commission issued in accordance with this chapter, or resists enforcement, shall, upon conviction, be liable for such equitable relief as a court shall grant and shall forfeit not less than \$500.00, nor more than \$1,000.00, and costs of prosecution for each violation. Failure to follow an order of the zoning administrator or planning commissioner to remove, halt construction or vacate a structure found to be in violation of this chapter shall be considered a separate violation for each day the violation exists or continues. Such monetary penalties may be demanded by the village prior to issuance of any conditional use permit, variance or building permit for the structure.

(Ord. No. 10-08, § 86-111, 7-14-2008)

#### **Sec. 86-12. Appeals.**

(a) The planning commission of the village shall have original jurisdiction for all applications, submittals, site plans and approvals of "wireless facilities" as set forth in this chapter as well as the Federal Telecommunications Act of 1996. The Federal Telecommunications Act of 1996 requires certain procedures to be followed in determining

whether wireless facilities may be placed in the village. This chapter is intended to be compliant with said Federal Law.

(b) In making any decision concerning the placement, construction or modification of any "wireless facility", as such term is defined by the Federal Telecommunications Act of 1996 as amended, the planning commission shall require the following:

- (1) The planning commission will keep a tape recording of the discussion and vote, in addition to the minutes of such decision. The tape will be maintained by the village for a period of one year following the meeting.
- (2) The planning commission will prepare a written record supporting its decision, based upon all documents and testimony in opposition to the petition and all documents in support of the petition, as well as written recommendations by the planning/zoning staff, transcripts of any applicable public hearing, the appropriate applicable sections of the comprehensive zoning ordinance or neighborhood plans, any applicable sections of the SEWRPC planning documents, written letters or comments by the public, any empirical analyses, studies or reports by persons having specific knowledge applicable to the issues, and any other records, documents or reports deemed applicable by the petitioner, staff or decision-making body.
- (3) All final decisions made by the planning commission will be in written form, stating with particularity the specific reasons for the decision. The final written decision will incorporate and refer to the portions of the written records upon which the decision is based. In addition, the written decision, if prohibiting the required use or structure (or other wireless facility) will advise the petitioner of his/her or its appeal rights.

(Ord. No. 10-08, § 86-112, 7-14-2008)

**Chapters 87--89**

**RESERVED**

## Chapter 90

### ZONING\*

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\* **Cross References:** Zoning board of appeals, § 2-221 et seq.; buildings and building regulations, ch. 14; mobile homes, ch. 50; streets, sidewalks and other public places, ch. 70; subdivisions, ch. 74; utilities, ch. 82; wireless facilities, ch. 86.

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<b>Section Number</b>	<b>Title</b>	<b>Ordinance Number</b>	<b>Date of Ordinance</b>
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District

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Subdivision VI.  
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R60 Residential Single-Family

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Subdivision VIII.  
R50MH Residential Mobile Home

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R40E Residential (Existing Limited)

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Residential Two-Family

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RM-1 Multiple-Family  
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RM-2 Multiple-Family  
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RM-4 Multiple-Family  
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B-P Business Park

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OEL Extractive or Landfill Operations

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OCR Commercial and Private Recreation

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OIP Institutional and Public Service

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OHS Highway Service

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OOS Office and Special Service

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Subdivision VIII.  
OPD Planned Development

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02-2012

03/26/12

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**ARTICLE I.**  
**IN GENERAL**

**Sec. 90-1. Authority.**

This chapter is adopted under the authority granted by Wis. Stats. § 60.74(7) and amendments thereto.  
(Ord. of 8-8-1972, § 1.1)

**Sec. 90-2. Purpose.**

The purpose of this chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of the village.  
(Ord. of 8-8-1972, § 1.3)

**Sec. 90-3. Intent.**

It is the general intent of this chapter to establish districts within which agriculture, forestry, industry, business, housing, recreation, mineral extraction and other uses may be conducted, regulated, restricted or prohibited so as to provide for a more compatible arrangement and environment, and to:

- (1) Designate certain users or areas and provide special regulations for such uses or areas;
- (2) Regulate lot coverage, and the size and location of all structures so as to prevent overcrowding and provide adequate public services and utilities;
- (3) Regulate population density distribution so as to avoid sprawl or undue concentration and facilitate the provision of adequate public services and utilities;
- (4) Provide suitable locations for residential housing for all persons, without regard to race, color, religion, national origin, sex or economic status;
- (5) Regulate parking, loading and access so as to lessen congestion in, and promote the safety and efficiency of, streets and highways;
- (6) Secure safety from fire, flooding, pollution, contamination and other dangers;
- (7) Stabilize and protect existing and potential property values;
- (8) Preserve and protect the beauty of the village;

- (9) Obtain the efficient use, conservation, development and protection of the village's water, soil, wetland, woodland and wildlife resources according to their capabilities;
- (10) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (11) Further the maintenance of safe and healthful water conditions;
- (12) Prevent flood damage to persons and property, and minimize expenditures for flood relief and flood control projects;
- (13) Protect animal life, including their nesting, resting, nursing and feeding areas;
- (14) Provide for, and protect, a variety of suitable commercial and industrial sites;
- (15) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (16) Implement the village, county, watershed and regional comprehensive plans, or components thereof, adopted by the village; and
- (17) Provide for the administration and enforcement of this chapter, and penalties for the violation of this chapter.

(Ord. of 8-8-1972, § 1.4)

#### **Sec. 90-4. Abrogation and greater restrictions.**

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. of 8-8-1972, § 1.5)

#### **Sec. 90-5. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements, and shall be liberally construed in favor of the village and shall not be construed to be a limitation or repeal of any other power now possessed by the village.

(Ord. of 8-8-1972, § 1.6)

#### **Sec. 90-6. Severability and nonliability.**

- (a) If any section, clause, provision or portion of this chapter is adjudged

unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(b) If any application of this chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in such judgment.

(c) The village does not guarantee, warrant or represent that only the soils listed as being unsuited for specific uses are the only unsuitable soils and hereby asserts that there is no liability on the part of the village board, its agencies or employees for any sanitation problems or structural damages that may occur as a result of reliance upon, and conformance with, this chapter.

(Ord. of 8-8-1972, § 1.7)

#### **Sec. 90-7. Jurisdiction.**

The jurisdiction of this chapter shall apply to all structures, lands, water and air within the village, except the lands lying within 1,000 feet of a lake or within 300 feet of a stream, or to the landward side of the floodplain, whichever is greater, are also regulated by sections 7.028 and 7.029 of the county zoning ordinance relating to floodlands and shorelands.

(Ord. of 8-8-1972, § 2.1)

#### **Sec. 90-8. Compliance.**

No structure, land or water shall be used, and no structure, or part thereof, shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit, except as specifically exempted in this chapter, without full compliance with the provisions of this chapter.

(Ord. of 8-8-1972, § 2.2)

#### **Sec. 90-9. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Terms used in the present tense shall include the future tense. Terms used in the singular number shall include the plural, and terms in the plural number shall include the singular. The term "person" may be taken for persons, associations, copartnerships or corporations. The term "structure" includes buildings. The term "occupied" includes designed or intended to be occupied. The term "used" includes designed, maintained, arranged or intended to be used. The word "may" is permissive; "shall" is mandatory and is not discretionary. The term "village" refers to the Village of Mount Pleasant, Racine County, Wisconsin. The term "board" refers to the village board. The term "plan commission" refers to the village plan commission established under Wis. Stats. §§ 61.35, 62.23. Reference to any officer, such as the building inspector, plumbing inspector, engineer or attorney, means that officer appointed or otherwise officially designated by the village in such capacity.

*A-Zones* means those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A-Zones. The A-Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

*AH Zone*—See “Area of Shallow Flooding”.

*AO Zone*—See “Area of Shallow Flooding”.

*Accessory structure or use* means a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

*Alley* means a special public right-of-way affording only secondary access to abutting properties, typically at the rear or sides. (See also the definition of the term "Street, frontage".)

*Alteration* means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

*Apartment* means a suite of rooms or a room in a multiple dwelling, which suite or room is arranged, intended or designed to be occupied as a residence of a single family, individual or group of individuals. (See the definition of the term "Family".)

*Apartment, efficiency*, means a one-room apartment.

*Apartment house*. (See the definition of the term "Dwelling, multiple".)

*Area of shallow flooding* means a designated AO, AH, AR/AO, AR/AH or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where the velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

*Automobile service station* means a place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including facilities for greasing, oiling, washing and minor repairs of vehicles on the premises, but not including automatic car washing or any body repair facilities or storage of vehicles for scrap or spare parts.

*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

*Base setback area* means the land lying between the edge of the existing street right-of-way and the base setback line.

*Base setback line* means the line from which all required setbacks are measured, which line corresponds to the established ultimate street right-of-way line as set forth in section 90-1001(c).

*Basement* means any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

*Boardinghouse* means a building or premises where meals or meals and lodging are offered for compensation for four or more persons, but not more than 12 persons, and having no more than four sleeping rooms for such purpose. An establishment where meals are served for compensation for more than 12 persons shall be deemed a restaurant. An establishment with more than four sleeping rooms shall be deemed a hotel or motel. (See also the definition of the term "Roominghouse".)

*Building* See "Structure".

*Building area.* (See section 90-1001(e).)

*Building, detached,* means a principal building surrounded by open space on the same lot.

*Building, height of,* means the vertical distance from the average building grade in front of the structure at the building line to the highest point on the coping of a flat roof, to the deck line of a mansard roof or to the highest point of the highest gable of a gambrel, hip or pitch roof.

*Building line.* (See section 90-1001(b)(6), (7).)

*Building, principal,* means the building on a lot in which the principal use is conducted as permitted on such lot by the regulations of the district in which the lot is located.

*Bulkhead line* means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Wis. Stats. § 30.11 and which allows limited filling between this bulkhead line and the original ordinary high water mark, except where such filling is prohibited by the floodway provisions of this article.

*Campground* means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is advertised or represented as a camping area.

*Camping trailer* means any shelter designed to provide sleeping, eating and living quarters, and designed to be transported on wheels from place to place, but shall be less than 20 feet in length. Any such shelter which exceeds 20 feet shall be considered a house trailer, and if the wheels have been removed, it shall be construed as a permanent dwelling structure.

*Camping unit* means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

*Car wash* means any facility used for the washing of motor vehicles, requiring the installation of special equipment or machinery and plumbing affixed to, or separate from, a structure.

*Certificate of compliance* means a certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this article.

*Channel* means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

*Clinic, medical or dental*, means a group of medical or dental offices organized as a unified facility to provide medical or dental treatment as contrasted with an unrelated group of such offices, but not including bedpatient care.

*Clothing repair shop* means a shop where clothing is repaired, such as shoe repair shops, seamstresses, tailor shops, shoeshine shops and clothes pressing shops, but not employing over five persons.

*Clothing store* means a retail store where clothing is sold, such as a department store, dry goods and shoe store, and dress, hosiery and millinery shop.

*Conditional uses.* (See sections 90-104 and 90-105.)

*Conservation standards* means the guidelines and specifications for soil and water conservation practices and management enumerated in the technical guide prepared by the USDA Soil Conservation Service for Racine County, adopted by the county soil and water conservation district supervisors, and containing suitable alternatives for the use and treatment of land, based upon its capabilities, from which the landowner selects the alternative which best meets his needs in developing his soil and water conservation plan.

*Court* means an occupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

*Court, inner*, means a court enclosed on all sides by exterior walls of a building, or by exterior walls and lot lines on which walls are allowable.

*Court, outer*, means a court extending to a street line or opening upon any front, side or rear yard.

*Crawlways or crawl space* means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

*Deck* means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

*Department* means the Wisconsin Department of Natural Resources.

*Development* means any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

*Dryland access* means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

*Dwelling, multiple*, means a building, or portion thereof, designed for, and occupied by, two or more families, including apartment houses, apartment hotels and townhouses. Such term is also referred to as "rowhouses."

*Dwelling, single-family attached*, means a residential structure designed to house a single-family unit, from the lowest level to the roof, with a private entrance, but not necessarily occupying a private lot, and sharing common walls between adjoining units. Such term is also referred to as a "townhouse" or "rowhouse."

*Dwelling unit* means a room or group of rooms which is arranged, intended or designed to be occupied as sleeping, eating and living quarters for a single individual or family. (See the definition of the term "Family.")

*Encroachment* means any fill, structure, equipment, building, use or development in the floodway.

*Essential services* means services provided by public and private utilities, which are necessary for the exercise of the principal use or service of the principal structure. Such services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage and communication systems, and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catchbasins, underground water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

*Existing manufactured home park or subdivision* means a parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this article. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

*Expansion to existing mobile/manufactured home park* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

*Extractive operations* means the removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other process.

*Family* means one or more persons related by blood, adoption or marriage, or not to exceed three persons not so related, occupying a premises and living as a single housekeeping unit, as distinguished from a group of individuals occupying a boardinghouse, roominghouse, club, fraternity or hotel.

*Federal emergency management agency (FEMA)* means the federal agency that administers the national flood insurance program.

*Flood insurance rate map (FIRM)* means a map of a community on which the federal insurance administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the federal emergency management agency.

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- (1) The overflow or rise of inland waters;
- (2) The rapid accumulation or runoff of surface waters from any source;
- (3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- (4) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

*Flood frequency* means the probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

*Floodfringe* means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

*Flood hazard boundary map* means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the national flood insurance program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

*Flood insurance study* means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood insurance rate maps, that accompany the flood insurance study, form the basis for both the regulatory and the insurance aspects of the national flood insurance program.

*Floodplain* means land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

*Floodplain island* means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

*Floodplain management* means policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

*Flood profile* means a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

*Floodproofing* means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

*Flood protection elevation* means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: "Freeboard")

*Flood storage* means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

*Floodway* means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

*Floor area for parking demand.* (See the definition of the term "Primary floor area (PFA).")

*Floor area ratio (FAR)* means the total floor area of buildings, exclusive of the

basements, allowed on a given lot, expressed as a percentage ratio of the total area of the lot (i.e., a FAR of 100 percent allows a floor area equal to the total area of the lot, an FAR of 50 percent allows a floor area of one-half the total area of the lot, etc.). A floor area ratio of 50 percent could be applied to a one-story building occupying 50 percent of the lot or a two-story building occupying 25 percent of the lot.

*Freeboard* means a safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

*Frontage* means the dimension of a lot abutting a public street, measured along the base setback line.

*Garage, private*, means a structure primarily intended and used for the enclosed storage or shelter of the private motor vehicles of the families resident upon the premises. Carports shall be considered garages within this definition.

*Garage, private attached*, means a garage, the roof of which is attached to the principal building.

*Garage, public or commercial*, means any garage not falling within the definition of the term "Garage, private," as defined in this section, and used for storage, repair, rental or servicing of motor vehicles.

*Gasoline service station*. (See the definition of the term "Automobile service station.")

*Grade, established*, means the elevation of the finished street at the centerline or curb as fixed by the engineer or by such authority as shall be designated by law to determine such elevation.

*Habitable structure* means any structure or portion thereof used or designed for human habitation.

*Hearing notice* means publication or posting meeting the requirements of Wis. Stats. Ch. 985, for appeals, a class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

*Height of building*. (See the definition of the term "Building, height of.")

*High flood damage potential* means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Highway.* (See the definition of the term "Arterial street" or "Street.")

*Historic structure* means any structure that is either:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

*Home or household occupation* means a gainful occupation conducted only by members of the family entirely within buildings at the place of residence, but not exceeding 25 percent of the floor area, where the space used is incidental to the residential use and does not adversely affect the exterior residential character of the premises, and the principal service or article offered for sale is produced on the premises. No such use shall normally require the coming of the customer or client to the premises, or his presence upon the premises while the service is being performed. Any machinery or equipment used shall not create noise or other nuisance factors beyond what is typical to a residential area, and a nonilluminated nameplate sign shall be allowed but shall be limited to one square foot. Unless prohibited by district regulations, such uses shall be accessory uses by right.

*Hospital* means an institution primarily intended for the medical diagnosis, treatment and bed care of patients being given medical treatment, as distinguished from a clinic which does not provide for bedpatient care.

*Hospital, animal,* means an establishment providing for medical care and treatment of animals, but distinguished from a kennel in that no outdoor runs shall be permitted for boarded animals and all indoor runs shall be soundproof.

*Hotel* means an establishment in which lodging, with or without meals, is offered for compensation and which may have more than five sleeping rooms for such purpose, but not including kitchen facilities in individual rooms.

*House trailer* means a structure designed to be a dwelling unit, which can be moved from place to place on wheels. As defined in Wis. Stats. § 66.0435, the term "dependent unit" means a structure not having its own plumbing facilities, whereas an independent unit has plumbing as well as heating and cooking facilities ready for hookup to utility connections. (See also the definitions of the terms "Mobile home" and "Camping trailer.")

*Increase in regional flood height* means a calculated upward rise in the regional flood elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

*Kennel, commercial*, means an establishment where dogs or other animal pets, which are not part of the actual household on the lot on which the facility is located, are raised, bred or boarded.

*Land use* means any nonstructural use made of unimproved or improved real estate. (Also see "Development".)

*Legal nonconformity* means the zoning status of a structure or parcel of land which, or the use of which, though legal prior to the passage of the ordinance from which this chapter is derived, does not comply with one or more of the provisions of this chapter.

*Loading area, off-street*, means the area on a lot or within a building designed to accommodate a parked truck in a space or berth for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley. Unless specifically determined otherwise for a particular use, such space shall be able to accommodate the largest trucks permitted on highways in the village.

*Lot* means a single parcel of contiguous land occupied or intended to be occupied by such structures and uses as permitted under this chapter, together with the open spaces required by this chapter, and abutting on a public street or officially approved way.

*Lot area* means the area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfares.

*Lot, corner*, means a lot having frontage on at least two public streets at the intersection of such streets.

*Lot, double frontage*, means a lot having frontage on two streets, other than at the street intersection, and the streets typically being along the front and rear lot lines.

*Lot, interior,* means a lot having frontage on only one public street.

*Lot lines* means the lines bounding a lot, as defined in this section.

*Lowest adjacent grade* means the elevation of the lowest ground surface that touches any of the exterior walls of a building.

*Maintenance* means the act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

*Manufactured home* means a structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

*Mobile home* means a structure designed to be a dwelling unit, which is manufactured and totally assembled in a factory and then transported to a lot or site for placement on a foundation and hookup to essential utility services for permanent habitation. Any such structure from which its wheels have been removed shall be construed to be a permanent structure for purposes of this chapter. (See also the definitions of the terms "House trailer" and "Camping trailer.")

*Mobile/manufactured home park or subdivision* means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

*Mobile/manufactured home park or subdivision, existing* means a parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

*Mobile/manufactured home park, expansion to existing* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or pouring of concrete pads.

*Mobile recreational vehicle* means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

*Model, corrected effective* means a hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross-sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

*Model, duplicate effective* means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

*Model, effective* means the hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

*Model, existing (pre-project)* means a modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

*Model, revised (post-project)* means a modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

*Motel* means a building or series of buildings in which lodging only is offered for compensation and which may have more than five sleeping rooms or units for such purpose, and which is distinguished from a hotel primarily by reason of providing direct, independent access to and adjoining parking for each rental unit.

*Municipality or municipal* means the county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

*NAVD or North American Vertical Datum* means elevations referenced to mean sea level datum, 1988 adjustment.

*NGVD or National Geodetic Vertical Datum* means elevations referenced to mean sea level datum, 1929 adjustment.

*New construction* means for floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

*Nonconforming lot* means a lot which does not conform to the lot size regulations of the district in which it is located.

*Nonconforming structure* means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

*Nonconforming use* means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

*Nonconforming use of land* means a use of any land in a way which does not conform to the use, residential density or open space regulations of the district in which it is located.

*Obstruction to flow* means any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

*Official floodplain zoning map* means that map, adopted and made part of this article, as described in section 90-1055(b), which has been approved by the Department and FEMA.

*Offset* means the shortest horizontal distance between any structure and a lot line, other than a street line. Such space shall constitute the side yards or rear yard.

*Open space* means an occupied space, open to the sky, on the same lot with the building, and not used for parking or driveway purposes. Roof terraces shall not be counted as open space unless the access thereto, design of the terrace and similar factors deemed pertinent by the plan commission have been approved by the plan commission in each instance.

*Open space use* means those uses having a relatively low flood damage potential and not involving structures.

*Ordinary highwater mark* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

*Outdoor recreational facilities* means land and structures, along with accessory equipment, designed and utilized for leisure time activities of a predominately outdoor nature and/or a more specific purpose than passive parklike open areas, and further classified as follows:

- (1) *Private commercial* means facilities owned and operated by an individual or group for profit as a business, whether or not such facilities are open to general public use.

- (2) *Private noncommercial* means facilities owned and operated by a group for the exclusive use of the members of such group and their guests, and not for profit as a business.
- (3) *Private residential* means facilities owned by an individual, located on the same or adjoining lot to his residence and intended solely for the use of his family and guests.
- (4) *Public* means facilities owned and operated by a governmental agency for limited or general public use.

*Parking space, off-street*, means the area on a lot designed to accommodate a parked motor vehicle as an accessory service to the use of such lot and with adequate access thereto from the public street. For purposes of satisfying parking requirements of this chapter, an off-street parking space shall have an area of not less than 160 square feet.

*Person* means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

*Primary floor area (PFA)* means the floor area of a building for purposes of determining required parking ratios, which area shall include only the portion of the total floor area devoted to customer service, sales and office space, and shall not include warehouses, utility, hallways and other accessory space, except as they generate parking demand.

*Private club or lodge* means a structure or grounds used for regular or periodic meetings or gatherings of a group of persons organized for a nonprofit purpose, but not groups organized to render a service customarily carried on as a business.

*Private sewage system* means a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the department of commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

*Professional office* means the office of a doctor, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, artist, musician or other similar recognized profession.

*Public utilities* means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

*Reasonably safe from flooding* means means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

*Regional flood* means a flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the firm, the RFE is equivalent to the BFE.

*Residential accessory, greenhouses*, means glassed enclosures used for horticulture, where the enclosure covers less than 500 square feet or five percent of the lot, whichever is less, and the operation thereof does not exceed the definition of the term "Home occupation."

*Residential business* means a home office or household occupation which is principally conducted by members of the resident family, but may permit up to one employee who is not a resident on the premises. Such business shall be conducted entirely within buildings of the place of residence, and shall not exceed one-half the area of one floor. The presence of the customer or client may involve such customer or client to be on the premises while the service is being performed, provided that no more than two customers or clients are to be on the premises at once. Off-street parking, if required, shall be located and screened to be compatible with the surrounding residential area. Any sign is limited to a nameplate not in excess of three square feet in area. A zoning permit for such use shall not be issued until the plan commission has reviewed the proposed use and determined that the use will meet the conditions of this definition. Where the district regulations require, a conditional use grant procedure shall be followed before issuance of any permit.

*Restaurant* means a building or premises where meals are offered for compensation.

*Road*. (See the definition of the term "Street.")

*Roominghouse* means a dwelling where more than three persons not related by blood, adoption or marriage live as a single housekeeping unit, which, for purposes of this chapter, shall be regulated as a boardinghouse.

*Sand and gravel pits*. (See the definition of the term "Extractive operations.")

*Setback* means the shortest horizontal distance between any structure and the base setback line. (See section 90-1001(b).)

*Shed* means an accessory structure not exceeding 180 square feet, a maximum height of 15 feet and a door six feet in width or less. The storage or parking of licensed motor vehicles is prohibited in any shed.

*Sign* means any structure, or part thereof, or any device attached to a structure, or any other form of visual communication applied to a structure by paint, illumination, embossing or other technique for the purpose of directing, advertising, informing, warning or otherwise visually conveying information to the viewer.

*Sign, directional*, means a sign intended solely for the purpose of directing patrons, customers, clients or patients to an establishment off the main travelled road, and not including promotional advertising unnecessary to such directional purpose.

*Sign, illuminated*, means a sign, the message of which is illuminated by artificial light, either by interior projection through translucent construction material or by directing the light at the sign and its supporting structure or by affixing lights of any type to the supporting structure or perimeter of the sign.

*Sign, nonaccessory*, means a sign related to commercial or similar activities, other than the activities actually engaged in on the site on which such nonaccessory sign is located.

*Smoke unit* means the number obtained when the smoke density, in Ringelman number, is multiplied by the time of emission, in minutes.

*Start of construction* means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Story* means the portion of a building included between the surface of a floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having one-half or more of its height above grade shall be deemed a story for purposes of height regulations.

*Street* means a public or private right-of-way usually affording primary access to abutting property.

*Street, frontage*, means a street contiguous and parallel to a traffic artery and affording direct vehicular access to abutting property. Such term is also referred to as a "frontage road."

*Street right-of-way line* means a dividing line between a lot, tract or parcel of land and a contiguous street.

*Street yard* means the lot area between a public road right-of-way or village approved private drive, and the primary entrance to the residential dwelling.

*Structural alteration* means any change in the supporting members of a building or any substantial change in the roof structure or the exterior walls.

*Structure* means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

*Structure, accessory*, means a structure, or portion of a structure, used for a purpose customarily incidental to the permitted principal use of the lot and located on the same lot as the principal use.

*Structure, permanent*, means a structure placed on or in the ground or attached to another structure in a fixed and determined position and intended to remain in place for a period of more than nine months.

*Structure, principal*, means a structure used, or intended to be used, for the principal use as permitted on such lot by the regulations of the district in which it is located.

*Structure, temporary*, means any structure, other than a permanent structure.

*Subdivision* means has the meaning given in Wis. Stats. § 236.02(12).

*Substantial damage* means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

*Substantial improvement* means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Tourist home* means a building in which lodging, with or without meals, is offered to transient guests for compensation and having no more than five sleeping rooms for such purpose, with no cooking facilities in any such individual room or apartment.

*Townhouse*. (See the definition of the term "Dwelling, single-family attached.")

*Trailer*. (See the definitions of the terms "Camping trailer," "House trailer" and "Mobile home.")

*Trailer camp* means any tract or parcel of land upon which two or more camping trailers, as defined in this section, are located or where trailer or camp sites are provided for the purpose of temporary recreational habitation.

*Unnecessary hardship* means where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

*Use* means the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

*Use, accessory*, means a use subordinate, and customarily incidental, to the permitted principal use of the property or building, and located upon the same lot as the principal use.

*Use, permitted*, means the utilization of land by occupancy, activity, building or other structure which is specifically enumerated as permissible by the regulations of the zoning district in which such land is located.

*Use, principal*, means the main or primary use of property or a structure as permitted on such lot by the regulations of the district in which it is located.

*Utilities* means public or private facilities, such as water wells, water and sewage pumping stations, water storage tanks, power and communications transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

*Variance* means an authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

*Violation* means the failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

*Vision setback area* means an unoccupied triangular space at the street or alley corner of a lot, as established by section 90-1001(b).

*Watershed* means the entire region contributing runoff or surface water to a watercourse or body of water.

*Water surface profile* means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow.

A water surface profile of the regional flood is used in regulating floodplain areas.

*Well* means means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

*Yards* means the spaces located on the same lot with a structure which the district regulations determine as the minimum distance of the principal and accessory structures to lot lines, other than the street setback.

(Ord. of 8-8-1972, § 13.0; Ord. No. 9-02, § 13.0, 7-22-2002; Ord. No. 9-2007, 12-10-2007; Ord. No. 3-2008, § 1(10.0), 2-11-2008)

**Cross References:** Definitions generally, § 1-2.

## **Sec. 90-10. Violations; penalties.**

(a) It shall be unlawful to use or improve any structure, land or water in violation of any of the provisions of this chapter. In case of any violation, the village board, village attorney, village zoning administrator, village plan commission or any neighboring property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this chapter or cause a structure to be vacated or removed.

(b) Any person who fails to comply with the provisions of this chapter or any order of the zoning administrator issued in accordance with this chapter or resists enforcement, shall, upon conviction, be liable for such equitable relief as a court shall grant, and shall forfeit not less than \$10.00, nor more than \$200.00, and costs of prosecution for each violation and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.

(Ord. of 8-8-1972, §§ 2.10, 2.11)

## **Secs. 90-11--90-40. Reserved.**

# **ARTICLE II.**

## **ADMINISTRATION AND ENFORCEMENT\***

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\* **Cross References:** Administration, ch. 2.

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## **DIVISION 1.**

## **GENERALLY**

## **Sec. 90-41. Zoning administrator.**

(a) There is created the office of zoning administrator for the village as the administrative and enforcement officer for the provisions of this chapter.

(b) Director of planning and development is designated as the zoning administrator. For the duties of zoning administrator, he may be provided with the assistance of such additional persons as the village board may direct.

(Ord. of 8-8-1972, § 11.1; Ord. No. 9-2007, 12-10-2007)

**Cross References:** Officers and employees, § 2-81 et seq.

#### **Sec. 90-42. Duties of zoning administrator.**

It shall be the duty of the zoning administrator to administer, supervise and enforce the provisions of this chapter and to:

- (1) Record all permits issued, inspections made, work approved and other official actions.
- (2) Inspect all structures, lands and waters as often as necessary to ensure compliance with this chapter.
- (3) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters.
- (4) Give notice of all violations of this chapter to the owner, resident, agent or occupant of the premises.
- (5) Report uncorrected violations to the village attorney and assist the village attorney in the prosecution of such chapter violations.

(Ord. of 8-8-1972, § 11.2)

#### **Sec. 90-43. Powers.**

The zoning administrator shall have all of the powers necessary to enforce the provisions of this chapter, including, but not limited to, the following:

- (1) Issue zoning permits and occupancy certificates upon application for the erection or use of a structure, land or water, where such erection or use compliances with all of the provisions of this chapter.
- (2) Enter premises, public or private, at any reasonable time, for any proper purpose, to make inspections as deemed necessary by him to ensure compliance with this chapter. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Wis. Stats. § 66.0119, except in cases of emergency.
- (3) Revoke any zoning permit or occupancy certificate upon reasonable cause or question as to proper compliance, and issue cease and desist orders requiring the cessation of any building, moving or alteration which is in

violation of this chapter. Such revocation shall be effective until such permit or certificate is reinstated by himself or the zoning board of appeals.

- (4) Recommend to the village board any additional use regulations as he may deem necessary.

(Ord. of 8-8-1972, § 11.3)

#### **Sec. 90-44. Zoning permits and occupancy certificates.**

(a) *Required.* No new building or existing building which is to be remodeled or relocated shall be issued a building permit until a zoning permit is issued certifying that such construction or change would comply with the provisions of this chapter, based upon the information and plans supplied to the zoning administrator as required under this section. Occupancy or use of land, water or buildings and structures shall be prohibited until an occupancy certificate has been issued certifying that all appropriate provisions of this chapter have been met.

(b) *Procedure.* Applications for zoning permits and occupancy certificates shall be made to the zoning administrator, upon forms furnished by the zoning administrator, prior to, or at the same time as, an application for a building permit or prior to the commencement of any use not involving a building permit, and shall include the following, where pertinent and necessary for proper review:

- (1) A statement by the applicant of the intended use of the premises and buildings thereon.
- (2) An accurate map of the property, drawn to a reasonable scale and properly dimensioned, showing the:
  - a. Boundaries of the property involved, and its address, including subdivision lot and block number or metes and bounds description.
  - b. Location of the centerline of any abutting streets, existing highway access restrictions, proposed street access points and the location of off-street parking, loading areas and driveways.
  - c. Location on the lot of any existing buildings, proposed additions or proposed new buildings, including the measured distances between such buildings and from the lot lines and the centerline of any abutting street to the nearest portion of such building.
  - d. Proposed floor elevation of any proposed buildings in relation to the existing and/or established grade of any abutting street and the general direction of surface drainage on the lot, including the

defined location of any defined drainageway. Such elevations shall be referenced to mean sea level datum.

- e. High water line of any stream or lake which abuts the property or otherwise directly affects it by flooding.
- f. Boundaries of soil types shown as existing on the property on USDA Soil Conservation Service maps referred to in section 90-1003.

- (3) Where the proposed use involves human occupancy and connection is not to be made to municipal sewer service, a plan of the proposed system for sewage disposal, which shall be in compliance with all ordinances and other governmental laws or regulations then applicable to such systems.
- (4) Where the proposed use involves human occupancy and connection is not to be made to municipal water service, satisfactory evidence that a safe and adequate supply of pure water is to be provided and the location of any well for that purpose shown on the map referred to in subsection (b)(2) of this section.

(c) *Issuance and posting.* Upon determination of compliance by the zoning administrator of the applicant's request with all applicable provisions of this chapter, including, where necessary, approval by the plan commission of the building site and operational plans pursuant to section 90-1005, and upon payment of the proper fee as set forth in section 90-45, a zoning permit shall be issued. The applicant shall post such permit in a conspicuous place at the site.

(d) *Inspection.* Within ten days after notification of the completion of the erection, alteration or relocation of the building or of the intent to commence a use, the building inspector shall make an inspection of the premises and any building thereon and, if the building and the intended use thereof and the proposed use of the premises comply with the requirements of this chapter, an occupancy certificate shall be issued.

(e) *Expiration; extension.* If, within 12 months of the date of application for a zoning permit, no occupancy certificate has been issued, any building permit related thereto shall lapse and the building inspector shall make immediate investigation to ascertain that no use or occupancy has in fact commenced without proper authority. Upon the showing of a valid cause, the building inspector may grant an extension of such permit for a period not to exceed six months.

(f) *Temporary permits.* Pending the issuance of a regular permit, a temporary permit for a nonresidential use may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of a building pending its permanent occupation. Such temporary permit shall not be issued, except under such restrictions and provisions as will adequately ensure the safety of the occupants. A temporary permit shall be

voided if the building fails to conform to the provisions of this chapter to such a degree as to render it unsafe for the occupancy proposed.  
(Ord. of 8-8-1972, § 11.4)

#### **Sec. 90-45. Fees.**

Issuance of a zoning permit and occupancy certificate and all inspections connected therewith shall require payment of a fee, except government applicants, in accordance with the following schedule:

Type of Permit		Fee
Occupancy permits, all uses		As set by the village board
Single-family and two-family residences		As set by the village board
Multiple-family structures, per structure		As set by the village board
All other principal structures, per structure		As set by the village board
Nonresidential additions, alterations or conversions		As set by the village board
Residential additions, alterations or conversions		As set by the village board
Accessory buildings, original construction or alterations and conversions		As set by the village board
Signs, original installations		As set by the village board
Signs, additions		As set by the village board
Special uses and procedures:		
	Mobile home developments	As set by the village board
	Extractive operations and landfills (OEL)	As set by the village board
	Building sites and operational plan reviews (see section 90-1005), if other than a conditional use, a planned development petition (OPD) or an extractive operation or landfill petition (OEL) use	As set by the village board

(Ord. of 8-8-1972, § 11.5)

#### **Sec. 90-46. Double fees.**

A double fee may be charged by the zoning administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this chapter, nor from prosecution for a violation of this chapter.  
(Ord. of 8-8-1972, § 11.6)

#### **Sec. 90-47. Fees for nongovernment petitions and applicants.**

To defray the cost of administration, including public notices and recordkeeping, the following fees, plus publication costs and the preparation of a map therefore, shall be charged for nongovernment petitioners or applicants:

	Fee
Zoning change or amendment	As set by the village board
Conditional use petition, including recording fee	As set by the village board
Planned development petition (OPD)	As set by the village board
Zoning board of appeals	As set by the village board
Extractive operation or landfill petition (OEL)	As set by the village board

(Ord. of 8-8-1972, § 11.7)

**Secs. 90-48--90-70. Reserved.**

## **DIVISION 2.**

### **CHANGES AND AMENDMENTS**

**Sec. 90-71. Authority.**

Pursuant to the provisions of Wis. Stats. §§ 60.74(7) and 62.23(7), the village board may, by ordinance after recommendation by the plan commission, change the district boundaries or amend or supplement the regulations established by the village or amendments thereto.  
(Ord. of 8-8-1972, § 12.1)

**Sec. 90-72. Initiation.**

A petition for a change or amendment may be made by any property owner in the area to be affected by the change or amendment by the village board or the village plan commission.  
(Ord. of 8-8-1972, § 12.2)

**Sec. 90-73. Filing of petitions.**

Petitions for any change to the district boundaries or amendments to the regulations set forth in this chapter shall be filed with the clerk-treasurer, together with the fee required in section 90-47 and the following information, where appropriate, upon forms supplied by the village:

- (1) Plot plan, drawn to scale, showing the area proposed to be rezoned, its location and dimensions, the location and classification of adjacent zoning districts and the location and existing uses of adjacent properties.
- (2) Names and addresses of all owners of properties lying within 300 feet of a proposed district change, as listed on the village assessor's maps or tax roll.

- (3) Additional information as required by the village board or plan commission.

(Ord. of 8-8-1972, § 12.3)

**Sec. 90-74. Referral and recommendations.**

(a) The clerk-treasurer shall refer, without delay, all such proposed changes or amendments to the plan commission, with copies to the village board and zoning administrator.

(b) The plan commission shall conduct the necessary study and investigation and, if desirable, an informal public hearing, and report its recommendations to the village board as promptly as possible.

(Ord. of 8-8-1972, § 12.4)

**Sec. 90-75. Official hearing.**

The village board shall hold a public hearing upon each proposed change or amendment. The clerk-treasurer shall give notice of the time and place of such hearing by:

- (1) Publication of a class 2 notice under Wis. Stats. ch. 985.
- (2) Mailing a notice to the owners of record as listed on the village tax rolls or assessor maps of all lands lying within 300 feet of any part of the land involved in either a:
  - a. Zoning district change.
  - b. Conditional use petition.

Such mailed notice shall be postmarked at least ten days prior to the date of the hearing. The failure of such notice to reach any property owner, provided such failure is unintentional, shall not invalidate any amending ordinance, grant of conditional use or board of zoning appeals' action.

- (3) The landowner and/or agent requesting a rezone and/or conditional use petition shall erect one minimum three-foot wide by three-foot high weather resistant sign along each public street frontage of the subject property if the property is less than one acre. The landowner and/or agent requesting a rezone and/or conditional use petition shall erect one minimum eight-foot wide by four-foot high weather resistant sign along each public street frontage of the subject property if the property is one acre or more in size. The sign(s) shall be installed a minimum of ten business days prior to the posted public hearing date.

The white signboard with black letters shall be clearly visible and legible to the adjacent public street and located within ten feet of the public right of way. The sign shall identify:

- a. The name of the landowner;
- b. Name of the rezone/conditional use petitioner;
- c. Existing zoning;
- d. Proposed zoning;
- e. Proposed conditional use (if applicable);
- f. Date, time and location of the zoning public hearing; and
- g. Date, time and location of the plan commission meeting which petition will be reviewed; and
- h. Date and location of the village board meeting which petition will be reviewed.

The sign shall be constructed in a manner that the landowner and/or agent can amend the date(s) of the plan commission and village board meeting(s) in the event the rezone/conditional use petition review requires a longer time period. (Ord. of 8-8-1972, § 12.5; Ord. No. 6-2005, 5-9-2005; Ord. No. 5-2006, 2-13-2006)

#### **Sec. 90-76. Action.**

(a) After such public hearing following receipt of the plan commission's recommendations, the village board shall act to approve, modify and approve or disapprove the proposed change or amendment. In connection with its action to modify and approve, or to approve, if already recommended by the plan commission, the village board may provisionally rezone the property which is the subject of the petition. Any such provisional rezoning shall become permanent, provided that the conditions imposed by the village board have been complied with in such period of time as may be designated by the village board, but not to exceed three years. For such period of time until the provisions have been met and certified by the zoning administrator, the official zoning map of the village shall show the property to be zoned "P (provisional) \_\_\_\_\_." By accepting the provisional rezoning, the petitioner is deemed to waive any claim of vested rights in the property during the period of provisional rezoning. The village board, in its discretion, may cause notice of the provisional rezoning, together with the provisions imposed, to be recorded in the office of the register of deeds.

(b) The village board shall not take action without having first heard the recommendations of the plan commission. Should the village board not concur with the recommendations of the plan commission, or should the village board desire to impose conditions or modifications not considered by the plan commission, it may re-refer the matter to

the plan commission for reconsideration before taking final action, specifying the amount of time available to the plan commission for reconsideration. If the matter re-referred to the plan commission returns to the village board, the village board shall assume the sole responsibility for disposition of the proposed change or amendment, including the right to re-refer the matter back to the plan commission for further reconsideration.  
(Ord. of 8-8-1972, § 12.6)

#### **Sec. 90-77. Protests.**

If a protest against a proposed change or amendment is filed with the clerk-treasurer at least 24 hours prior to the date of the meeting of the village board at which the recommendation of the plan commission is to be considered, appearing to be duly signed and acknowledged by the owners of 20 percent or more of the area proposed to be altered, or by abutting owners of over 20 percent of the total perimeter of the area proposed to be altered included within 100 feet of the parcel proposed to be rezoned, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, action on such ordinance may be deferred until the clerk-treasurer has had a reasonable opportunity to ascertain and report to the village board as to the authenticity of such ownership statements. If such statements are found to be true, such ordinance shall not be adopted, except by the affirmative vote of three-fourths of the members of the village board present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present, such protest may be disregarded.  
(Ord. of 8-8-1972, § 12.7)

#### **Secs. 90-78--90-100. Reserved.**

### **DIVISION 3.**

#### **USES**

#### **Sec. 90-101. Legal nonconformity.**

(a) *Existing use permitted.* The existing lawful use of a building or premises at the time of the enactment of the ordinance from which this chapter is derived or any amendment applicable thereto which is not in conformity with the provisions established by this chapter may be continued in the manner and for the purposes then existing, subject to the conditions stated in this section.

(b) *Classification and regulation.* For the purpose of administration, such nonconformity shall be classified and regulated as follows:

(1) *Nonconforming structures.*

- a. No such structure shall be expanded or enlarged, except in conformity with the regulations of the district in which it is located.

- b. When such structure is damaged to the extent of more than 50 percent of its current full market value, it shall not be restored, except in conformity with the regulations of the district in which it is located.
- c. Notwithstanding any other provision of this chapter, upon petition to, and grant of a variance by, the zoning board of appeals, such structure may be expanded, enlarged or repaired in accordance with the provisions of division 4 of this article.

(2) *Nonconforming use of structures.*

- a. No such use shall be expanded or enlarged.
- b. Upon petition to, and approval of, the zoning board of appeals, such use may be changed to another use, provided, the zoning board of appeals determines that the new use would result in greater or no less degree of conformity and, provided, further, that such new use shall thereafter determine the degree of legal nonconformity.
- c. Where any such use is discontinued for a period of 12 consecutive months or 18 accumulative months during any three-year period, any future use of the structure shall conform to the regulations of the district in which it is located.
- d. Where the structure in which such use is carried on is damaged to the extent of more than 50 percent of its current full market value, it shall not be restored for use, except in conformity with the regulations of the district in which it is located.
- e. Structural repairs and alterations to a structure housing such use shall not, as long as such use continues, exceed 50 percent of the full market value of the structure at the time the use became nonconforming.
- f. Notwithstanding any other provision of this chapter, a variance of the limitations imposed by subsections (b)(2)c.--e. of this section may be requested by petition to the zoning board of appeals pursuant to division 4 of this article.

(3) *Nonconforming lots.*

- a. No such lot shall be conveyed to a new owner, except in conformity with the applicable provisions of chapter 74 of this Code.

- b. No building or occupancy and zoning use permit shall be issued, except in conformity with section 90-1001(e).
- c. The size and shape of such lot shall not be altered in any way to increase the degree of nonconformity, except with the approval of the board of zoning appeals.

(4) *Nonconforming use of land.*

- a. No such use shall be expanded or enlarged.
- b. Upon petition to, and approval of, the zoning board of appeals, such use may be changed to another use, provided, the plan commission determines that the new use would result in greater or no less degree of conformity and, provided, further, that such new use shall thereafter determine the degree of legal nonconformity.
- c. Where any such use is discontinued for a period of 12 consecutive months or 18 accumulative months during any three-year period, any future use of the land shall conform to the regulations of the district in which it is located.

(Ord. of 8-8-1972, § 9.1)

**Sec. 90-102. Conditional use status.**

Subject to the provisions of section 90-103, any legal nonconforming use described in section 90-101(2)--(4) may, upon petition and approval, be reclassified as a use permitted by conditional grant.

(Ord. of 8-8-1972, § 9.2)

**Sec. 90-103. Removal of hazards.**

Upon complaint of the building inspector, where any nonconforming structure or use shall be found by the zoning board of appeals as a matter of fact to be a detriment to the public health, safety or general welfare, such structure shall be ordered to be removed or such use to be discontinued within such time as the zoning board of appeals may deem reasonable. Upon failure to carry out such order, the village may take such steps as are necessary to remove such structure or discontinue such use and assess the costs thereof against the property owner.

(Ord. of 8-8-1972, § 9.3)

**Sec. 90-104. Conditional use grant.**

(a) *Approval required.* Uses listed as permitted by conditional grant may be permitted in the district in which listed, if approved by the village board upon recommendation of the plan

commission, and to such other conditions as designated in this division, including a public hearing. Legal nonconforming uses may also be permitted conditional grant status pursuant to article IV of this chapter and section 90-105(f).

(b) *Basis of approval.*

- (1) Processing for a conditional use grant shall require submittal and evaluation of at least the same information as required by section 90-1005 and, therefore, separate processing under such section shall not be required.
- (2) In addition to the criteria set forth in section 90-1005, the village board in acting and the plan commission in recommending shall use the building location, height and size, lot size and open space regulations of the district in which the use is proposed as a guide to evaluate submittal information; however, the requirements may be modified or waived in their application to both the principal and accessory structures of a conditional use if, in the village board's opinion, they are not appropriate or necessary to the proper regulation of the conditional use, and where such modification or waiver would not, in the village board's opinion, result in an adverse effect upon the surrounding properties and would be consistent with the spirit of this chapter and the village's general plan.

(Ord. of 8-8-1972, § 3.1)

**Sec. 90-105. Conditional use grant requests.**

(a) *Petition.* A request for a conditional use grant shall be submitted, in writing, to the clerk-treasurer, who shall promptly refer such petition to the plan commission for recommendation. Such petition shall be accompanied by appropriate data and information necessary for proper evaluation of the request, including, specifically, the following:

- (1) An accurate map of the property, including an indication of the general terrain and topographic characteristics, the location of all significant terrain features, such as streams, ponds, tree growth, etc., and the location of all existing structures.
- (2) An accurate and complete written description of the use for which the conditional grant is being requested, including pertinent statistics and operational characteristics.
- (3) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc.
- (4) Any other pertinent information required by the plan commission or village board as set forth in forms supplied by the village.

(b) *Hearing.* Upon receipt of the petition, the village board shall schedule a public hearing thereon.

(c) *Determination.* Following the public hearing and necessary study and investigation by the plan commission, the village board shall, as soon as practical, render its decision, in writing, and a copy of such decision shall be made a permanent part of the village board's records. Such decision shall include an accurate description of the use permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for such disapproval.

(d) *Mapping and recording.* When a conditional grant is approved, the building, occupancy and zoning use permits shall be appropriately noted, and such grant shall be applicable solely to the structure, use and property so described. Indication of such a grant shall also be made on the zoning map by appropriate code number or symbol. An official record of such grant shall be prepared at the direction of the village board on a form prescribed for such purpose, which shall include the description of the use for which the grant is given and all conditions thereto, as well as a copy of the village board's resolution approving the grant. A land covenant form provided by the village shall be recorded at the county register of deeds as a covenant on the title of the premises involved, referring to the existence of the grant.

(e) *Termination.* Where a permitted conditional use does not continue in conformity with the conditions of the original approval, the conditional grant may be terminated by action of the village board, following referral to the plan commission for recommendation, and a public hearing thereon.

(f) *Application to existing uses.*

- (1) A use which existed lawfully on a lot at the time such lot was placed in a district where such use would be permitted only as a conditional grant, may be granted conditional use status under the procedures in this section.
- (2) The grant of a conditional use in such case shall be based upon the existing conditions at that time; however, the village board, upon recommendation of the plan commission, may require improvements in general building appearance, the proper storage of outside materials, the provision of more satisfactory off-street parking, the use of planting and fencing screens, where necessary, and operational matters relating to the control of noise, dust, odor, smoke and excessive glare or illumination of lighting, provided that such measures shall be within the reasonable economic capacities of such a use. Any expansion or change in a use shall require changing of the conditional use grant.
- (3) Petition may be made at any time of expansion or other change of the conditional use grant, and such petition shall not prejudice the existing grant as authorized in this section.

(Ord. of 8-8-1972, § 3.2)

**Secs. 90-106--90-130. Reserved.**

#### **DIVISION 4.**

#### **ZONING BOARD OF APPEALS\***

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\* **Cross References:** Boards, commissions and committees, § 2-181 et seq.

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#### **Sec. 90-131. Established.**

There is established a zoning board of appeals for the village for the purpose of hearing appeals from any person aggrieved or any officer, department, board or commission of the village affected by a decision of the zoning administrator or plan commission, provided such appeal shall be taken within a reasonable time, as provided by the rules of the zoning board of appeals.

(Ord. of 8-8-1972, § 10.1)

#### **Sec. 90-132. Membership.**

(a) The zoning board of appeals shall consist of five members appointed by the president of the village board and approved by the village board. The president shall make his nominations at least one month prior to their appointment.

(b) Terms of members of the zoning board of appeals shall be for staggered three-year periods.

(c) Members of the zoning board of appeals shall reside within the village.

(d) The zoning board of appeals shall, annually, choose its own chair.

(e) An alternate member may be appointed by the president for a term of three years and shall act only when a regular member is absent or refuses to vote because of a conflict of interest.

(f) The zoning administrator shall attend all meetings of the zoning board of appeals for the purpose of providing technical assistance, when requested by the zoning board of appeals.

(g) Official oaths shall be taken by all members in accordance with Wis. Stats. § 19.01 within ten days of receiving notice of their appointment.

(h) Vacancies shall be filled for an unexpired term in the same manner as appointments for a full term.

(i) Removal from office shall be by action of the village board, upon recommendation by the president, for cause, including excessive absenteeism or other causes affecting the fair and impartial operation of the zoning board of appeals.  
(Ord. of 8-8-1972, § 10.2)

#### **Sec. 90-133. Organization.**

(a) The village board shall adopt rules for the conduct of the business of the zoning board of appeals in accordance with the provisions of this chapter. The zoning board of appeals may adopt further rules, as necessary.

(b) Meetings shall be held at the call of the chair or at such other times as determined by the rules of the zoning board of appeals, and shall be open to the public.

(c) Minutes of the proceedings of meetings and a record of all actions shall be kept by the zoning board of appeals, showing the vote of each member upon each question, the reasons for the zoning board of appeals' determination and its findings of fact. The records shall be immediately filed in the office of the zoning board of appeals and shall be a public record.

(d) The concurring vote of three members of the zoning board of appeals shall be necessary to grant an appeal.  
(Ord. of 8-8-1972, § 10.3)

#### **Sec. 90-134. Powers.**

(a) The zoning board of appeals shall have the following powers:

- (1) *Errors.* Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrator or plan commission.
- (2) *Variances.* Hear and authorize appeals for variances where, owing to special conditions, a literal enforcement will result in a practical difficulty or unnecessary hardship. Such variance shall not be contrary to the public interest and shall be conditioned so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. No variance shall have the effect of permitting any use in a district that is prohibited in that district, nor of rezoning or granting a conditional use.
- (3) *Interpretations.* Hear and decide applications for interpretations of the location of the boundaries of the zoning districts, except the OCS jurisdiction which is only enforceable by the county.

- (4) *Substitutions.* Hear and grant applications for substitutions of more restrictive nonconforming uses for existing nonconforming uses as provided under division 3 of this article. Whenever the zoning board of appeals permits such a substitution, the use may not thereafter be changed without application.
- (5) *Temporary uses.* Hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses, and the zoning administrator has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the zoning board of appeals, and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this chapter shall be required.
- (6) *Permits.* May reverse, affirm wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as should be made.
- (7) *Assistance.* May request assistance from other village officers, departments, commissions and boards.

(b) The chair may administer oaths and compel the attendance of witnesses.  
(Ord. of 8-8-1972, § 10.4)

### **Sec. 90-135. Appeals procedure.**

(a) Appeals to the zoning board of appeals shall be filed in the office of the zoning administrator within 30 days after the date of written notice of the decision or order of the zoning administrator or plan commission. Applications may be made at any time by the owner or lessee of the structure, land or water to be affected and shall be filed in the office of the zoning administrator.

(b) Such appeals and applications shall include the following:

- (1) Name and address of the appellant or applicant and all abutting and opposite property owners of record.
- (2) Plat of survey, prepared by a registered land surveyor in the state, or other map, drawn to scale, and approved by the zoning administrator, showing all of the information required under this chapter for a zoning permit.
- (3) Additional information required by the zoning administrator or zoning board of appeals.

(4) Fee receipt from the zoning administrator, as set forth in section 90-47.  
(Ord. of 8-8-1972, § 10.5)

#### **Sec. 90-136. Hearings.**

(a) The zoning board of appeals shall fix a reasonable time and place for a hearing on an appeal application, giving notice thereof by:

- (1) Publishing a class 2 notice as required under Wis. Stats. ch. 985.
- (2) Mailing the notice to the appellant and abutting owners, including those separated from the subject lands by a right-of-way.

(b) At the hearing, the appellant may appear in person, by agent or by attorney.  
(Ord. of 8-8-1972, § 10.6)

#### **Sec. 90-137. Findings.**

No variance to the provisions of this chapter shall be granted by the zoning board of appeals unless it finds, beyond a reasonable doubt, that all of the following facts and conditions exist, and indicates such finding in the minutes of its proceedings:

- (1) *Exceptional circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions which apply to the lot or parcel, structure, use or intended use that do not generally apply to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
- (2) *Absence of detriment.* The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (3) *Hardship not created by owner.* The alleged difficulty or hardship has not been created by any person presently having an interest in the property.

(Ord. of 8-8-1972, § 10.7)

#### **Sec. 90-138. Decisions.**

(a) The zoning board of appeals shall decide all appeals and applications within 15 days after the final hearing and shall transmit a signed copy of the zoning board of appeals' decision to the appellant or applicant and the zoning administrator.

(b) Conditions may be placed upon any zoning permit ordered or authorized by the zoning board of appeals.

(c) Variances, substitutions or use permits granted by the zoning board of appeals shall expire within six months unless substantial work has commenced pursuant to such grant. (Ord. of 8-8-1972, § 10.8)

**Sec. 90-139. Review by court of record.**

Any person aggrieved by any decision of the zoning board of appeals may present to the court of record a petition, duly verified, appealing such decision as provided in Wis. Stats. § 62.23(7). Such petition shall be presented to the court within 30 days after the filing of the decision in the offices of the zoning board of appeals. (Ord. of 8-8-1972, § 10.9)

**Secs. 90-140--90-170. Reserved.**

**ARTICLE III.**

**DISTRICTS AND MAP ESTABLISHED**

**Sec. 90-171. Compliance required.**

Within the village, the use of any land or water, the size, shape and placement of lots, including the provision of open spaces within lots, and the use, size, height, location and type of structures thereon shall be in compliance with the regulations established in this chapter and made applicable to the district in which such land or structure is located. (Ord. of 8-8-1972, § 7.1)

**Sec. 90-172. Applicability.**

The regulations set forth in this chapter are specifically applicable to each individual district as established and set forth in this article. (Ord. of 8-8-1972, § 7.2)

**Sec. 90-173. Purpose and enumeration.**

For the purpose of implementing this chapter, the following types of zoning districts are created and established:

- (1) *Basic holding districts.* The basic holding districts are established for the purpose of permitting certain existing uses of land to continue with legal status in their present circumstances until development or redevelopment

is ready to occur, at which time, based upon the completion of additional detailed planning by the village, rezoning to other basic districts or overlay districts would take place.

- (2) *Basic development districts.* The basic development districts are established for the purpose of regulating land use consistent with local, county and regional land use and transportation plans adopted by the village plan commission as a guide for the village's development.
- (3) *Overlay districts.* Overlay districts are established which provide for the possibility of superimposing upon basic districts certain additional permissive uses and regulatory standards applicable thereto without disturbing the underlying basic district regulations. The intent of overlay districts is similar to that upon which conditional use grants are premised and, in effect, represents the granting of defined additional special use rights in specifically defined areas.

(Ord. of 8-8-1972, § 7.3)

**Sec. 90-174. Format of individual district regulations and summary.**

(a) For convenience and readability, the description of uses as permitted in each district and the supplementary regulations thereto are presented in a form consisting of the following:

- (1) A statement of intent interpreting the intended purpose of the specific district classification.
- (2) A description of permitted principal uses.
- (3) A description of permitted accessory uses.
- (4) A description of uses permissible, if granted as conditional uses pursuant to sections 90-104 and 90-105.
- (5) Special regulations which apply to the district.

(b) A summary tabulation of the specific numeric requirements of the provisions of article VII of this chapter are made applicable to each district. In the case of an overlay district, the requirements listed apply to the uses permitted by virtue of the overlay and do not alter the application of the underlying district regulations to the uses permitted therein.

(Ord. of 8-8-1972, § 7.4)

**Sec. 90-175. Official zoning map established.**

(a) *Districts mapped.* The village is divided into zoning districts as shown upon a series of individual maps designated as the "Zoning District Map, Village of Mount Pleasant,

Racine County, Wisconsin," at scales of one inch equals 400 feet, and such maps are made a part of this section, and all the notations, references and other information shown on such maps shall be as much a part of this section as if the matters and information set forth by such maps were all fully described in this section.

(b) *Changes.* The official zoning maps shall be kept current at all times. The official zoning maps shall be corrected at the direction of the village board within 30 days of passage of any amendatory ordinances.

(c) *Replacement.* If one or more of the official zoning district maps become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the village board may, by resolution, adopt a new map, which shall supersede the prior map. The new official zoning district map may correct drafting or other errors or omissions in the prior map, but no such corrections shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof.

(d) *Boundary determinations.* District boundaries shall be determined by measurement from, and as shown on, the official zoning district maps, and in case of any question as to the interpretation of such boundary lines, the plan commission shall interpret the map according to the reasonable intent of this chapter.

- (1) Unless otherwise specifically indicated or dimensioned on the maps, the district boundaries are normally lot lines; section, quarter section or 16th section lines; corporate boundaries; soil mapping unit lines; or the centerlines of streets, highways, railways or alleys.
- (2) The boundaries of the W-F wetland-floodplain districts, as drawn, are intended to represent the edges of lakes, streams, swamps, marshes or other lands not adequately drained or subject to flooding, and shall be finally determined by the actual conditions in each specific situation.

(e) *Identification.* The text of the official zoning regulations and the corresponding official zoning district maps shall be kept on file in the offices of the village and any other copies thereof shall be purely informational and shall not have the status of law. Such text and maps shall be in the care of the clerk-treasurer.  
(Ord. of 8-8-1972, § 7.5)

## **Sec. 90-176. District symbols and names.**

A summary of the district names and their abbreviations are listed in this section for the purpose of relating the zoning district map symbols to the districts they represent.

- (1) *Basic holding districts.*

District Symbol	District Name
AUH	Agriculture urban holding

RCH	Redevelopment-conservation holding
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(2) *Basic development districts.*

District Symbol	District Name
AG	Agriculture
W-F	Wetland-floodplain
PUL	Public or utility lands
B-1	Neighborhood business
B-2	Community business
B-3	General business
B-4	Office
B-P	Business park
M-1	Industrial (manufacturing and warehousing)
M-E	Industrial (existing limited)
R100	Residential single-family
R75	Residential single-family
R60	Residential single-family
R50MH	Residential mobile home
R40E	Residential (existing limited)
R100D	Residential two-family
R75D	Residential two-family
R60D	Residential two-family
RM-1	Multiple-family (garden apartments and townhouses)
RM-2	Multiple-family (low rise apartments)
RM-3	Multiple-family (high density low rise apartments)
RM-4	Multiple-family (medium rise apartments)

(3) *Overlay districts.*

District Symbol	District Name
OAG	Agriculture
OEL	Extractive or landfill operations
OCR	Commercial and private recreation
OCS	County shoreland and jurisdiction
OIP	Institutional and public service
OHS	Highway service commercial
OOS	Office and special service commercial
OPD	Planned development

(Ord. of 8-8-1972, § 7.6)

**Secs. 90-177--90-210. Reserved.**

## ARTICLE IV.

### DISTRICTS

#### DIVISION 1.

#### GENERALLY

##### **Sec. 90-211. Use regulations.**

(a) *Restricted.* No structure or land shall be used, and no structure shall be erected, structurally altered or relocated, after the effective date of the ordinance from which this chapter is derived, except for a use permitted by, and in compliance with, the regulations established in this article for the district in which it is located.

(b) *Classified uses.* For the purpose of this chapter, all uses shall be classified according to the following categories:

- (1) *Permitted uses by right.* Permitted uses by right shall include principal uses, the permissibility of which are a predetermined right any place in the district in which they are located, subject only to the regulations established governing such uses.
- (2) *Permitted accessory uses.* Permitted accessory uses include uses incidental, customary to and commonly associated with a permitted principal use.
- (3) *Permitted uses by conditional grant.* Permitted uses by conditional grant include uses, the nature, character or circumstances of which are so unique or so dependent upon the specific contemporary conditions that predetermination of permissibility by right or the detailing in the chapter of the specific standards, regulations or conditions necessary or appropriate to such permissibility are not practical, but which may be permitted in the districts where listed, subject to certain conditions and requirements as specified in this article.

(c) *Unclassified uses.* Any use not specifically listed as a permitted use shall be considered to be prohibited, except as may otherwise specifically be provided in this article. In case of a question as to the classification of a use, the question shall be submitted to the plan commission for a determination.

(d) *Temporary uses.* Temporary uses, such as real estate development field offices or shelters for construction materials and equipment, may be permitted by the building inspector.

(e) *Performance standards.* Performance standards listed in article VI of this chapter shall be complied with by all uses in all districts.  
(Ord. of 8-8-1972, § 2.3)

**Secs. 90-212--90-230. Reserved.**

## **DIVISION 2.**

### **BASIC HOLDING DISTRICTS**

#### **Subdivision I.**

##### **In General**

**Secs. 90-231--90-250. Reserved.**

#### **Subdivision II.**

##### **AUH Agriculture Urban Holding**

**Sec. 90-251. Established.**

(a) *Statement of intent.* The AUH agriculture urban holding district is intended to be used extensively throughout the portion of the village which is expected to develop over an extended period of time according to present regional, county or local land use plans, into residential neighborhoods offering diversified housing types and including related local and collector streets, parks, schools, churches and, in limited instances, convenience business development, but where the basis for detailed planning of the precise location of these many elements to a residential neighborhood cannot be properly determined, except contemporaneously with demand, because the future real estate market is unpredictable, the availability of essential services is incomplete and limitations of the land and the existing development pattern, including the desires of existing and future landowners, are best determined only when development is imminent, and where, therefore, the continuation of development of vacant lots in certain existing subdivisions and along the existing rural road network or the beginning of any new such development, without such proper detailed planning, might do damage to the possibility of achieving proper neighborhood development of such lots and adjacent vacant lands, the AUH district prohibits additional new development until such detailed planning and the consequent rezoning to one or more basic or overlay development districts has taken place; while permitting existing residential uses to continue with legal conforming status as relates to repairs and remodeling of existing structures. At least every five years, the village shall review the desirability of rezoning tracts of land placed in the AUH district to basic or overlay districts.

(b) *Permitted uses by right.* Permitted uses by right in the AUH district shall include the following:

- (1) Agriculture, as regulated in the agriculture district, except that on farms of less than ten acres, the keeping or raising of hogs or fur bearing animals shall not be permitted, nor the keeping or raising of poultry and domestic livestock shall not be permitted to exceed more than one head of livestock per acre, nor more than 50 fowl per acre, nor more than five goats per farm, and, provided, buildings housing poultry shall be offset 300 feet. Transient feeding of hogs or cattle shall not be permitted.
- (2) Residential uses present in the AUH district on their lots of record on the effective date of the ordinance from which this chapter is derived, including the right to repair and remodel existing principal and accessory structures, except that proposed additions which increase the ground cover of a structure and new accessory structures shall be reviewed by the plan commission, and a finding shall be made that such proposed construction would not hamper or block possible future streets or resubdivision of the subject or adjacent lands, or create a nonconforming situation with respect to setbacks, offsets and required open spaces, under the basic residential district most likely to be placed on the subject property in the future and, if such a finding cannot be made, the zoning permit will be denied.
- (3) Public utility transmission and distribution lines, poles and other accessories, provided that when a utility proposes a main intercity transmission facility, the utility shall give notice to the plan commission of such intention and of the date of hearing before the public service commission, and before beginning construction of a specific route, shall file with the plan commission a mapped description of the route of such transmission line.

(c) *Permitted accessory uses.* Permitted accessory uses in the AUH district shall include the following:

- (1) Accessory uses permitted in the R100 residential single-family district.
- (2) Accessory uses permitted in the agriculture district.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the AUH district shall include the following:

- (1) Conditional uses permitted in the agriculture district.
- (2) Legal status to legal nonconforming uses pursuant to section 90-102.

(e) *Special regulations.* It is anticipated that development of lands in the AUH district will take place after rezoning to one or more of the basic residential development districts and certain overlay districts, as well as limited amounts of neighborhood commercial districting, except that development, consistent with adopted village plans covering the specific area, may

take place by rezoning to the OPD overlay planned development district as regulated in section 90-892 without rezoning to basic development districts.

(f) *[Municipal water]*. A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.7(1); Ord. No. 11-2008, 7-14-2008)

**Secs. 90-252--90-270. Reserved.**

### **Subdivision III.**

#### **RCH Redevelopment-Conservation Holding District**

**Sec. 90-271. Established.**

(a) *Statement of intent.* The RCH redevelopment-conservation holding district is intended to be used on a limited basis in the village in certain existing areas which have been developed for several decades, and where many structures located in concentrated or scattered segments of the district are nearing the end of their economic life, both as a result of age and obsolescence as to use due to the encroachment of other, usually not compatible, uses, such as industry into residence, scattered commercial among residence and vice versa, and where conserving the remaining life of other structures through renovation is hampered by such encroachments, and where detailed comprehensive planning has shown that only through a concerted and coordinated effort between local government and private ownership can a new use pattern be evolved which will resolve the incompatibilities and permit a natural and healthy renewal of the neighborhood, and where the use of conventional basic development zoning districts would be exceedingly complex and introduces difficulties of legal versus nonconforming use status that may obstruct such renewal, therefore, the RCH district permits uses and structures existing on the effective date of the ordinance from which this chapter is derived to continue with legal conforming status as relates to repairs and maintenance, but requires that all remodeling or additions to structures and changes of use be processed under sections 90-104 and 90-105.

(b) *Permitted uses by right and permitted accessory uses.* Permitted uses by right and permitted accessory uses in the RCH district shall include all uses and structures existing on the effective date of the ordinance from which this chapter is derived in the RCH district on their lots of record, including the right to repair and maintain such uses and structures, except that proposed remodeling, additions, new principal or accessory structures, or changes of use shall be permitted only by conditional use grant.

(c) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the RCH district shall include all continuations of uses existing on the effective date of the ordinance from which this chapter is derived involving remodeling, additions or new construction of structures, and all changes of use from those existing on the effective date of the ordinance from which this chapter is derived.

(d) *Special regulations.* In passing on petitions for conditional uses in the RCH district, the plan commission in recommending and village board in approving such petitions shall utilize all pertinent planning studies conducted on the subject area and available to the village, drawing upon such studies and the regulations existing in comparable basic districts of this chapter, for guidelines as to the imposition of locational regulations and of the conditions of use and operation.

(e) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.7(2); Ord. No. 11-2008, 7-14-2008)

**Secs. 90-272--90-290. Reserved.**

### **DIVISION 3.**

#### **BASIC DEVELOPMENT DISTRICTS**

##### **Subdivision I.**

##### **In General**

**Secs. 90-291--90-310. Reserved.**

## **Subdivision II.**

### **AG Agriculture**

#### **Sec. 90-311. Established.**

(a) *Statement of intent.* The AG agriculture district is intended to provide for all agricultural uses in the areas of the village where farming is to be encouraged and protected as much as possible for the foreseeable future from further encroachment by urban uses, and where, because of existing scattered nonagricultural development, particularly residential uses located in occasional subdivisions or strung out along the existing road network, conforming legal status is being permitted for such existing residences and existing vacant residential lots, but in no case are such lots to be built upon or new lots created where the soils are not suitable for absorption of sewage effluent.

(b) *Permitted uses by right.* Permitted uses by right in the AG district shall include the following:

- (1) Agriculture, including, but not limited to, apiculture, crop farming, dairying, horticulture, including commercial greenhouses, livestock and poultry raising, tree farming and forestry.
- (2) Residences, not accessory to a principal agricultural use, provided, they are one of the following:
  - a. Existing at the adoption of the ordinance from which this chapter is derived.
  - b. Built upon lots approved under subsection (e) of this section.
  - c. Built upon lots created after the effective date of the ordinance from which this chapter is derived, where the number created does not exceed one for each 20 acres of contiguous ownership existing at the adoption date of the ordinance from which this chapter is derived, except on contiguous ownerships of less than 20 acres, but more than ten acres, one such lot may be created, and where such lots are the minimum size necessary to meet the R100D district requirements or state soil standards.
- (3) Public utility transmission and distribution lines, poles and other accessories, provided that when a utility proposes a main intercity transmission facility, the utility shall give notice to the plan commission of such intention and of the date of the hearing before the public service commission, and before beginning construction of a specific route, shall file with the plan commission a mapped description of the route of such transmission line.

(c) *Permitted accessory uses.* Permitted accessory uses in the AG district shall include the following:

- (1) Residences for owners or farm laborers actually employed full-time in the principal use. New such structures shall at least conform to the R100 district standards for lot area and building location, but shall not be constructed at a density exceeding one unit for each 20 acres of contiguous ownership, including nonaccessory residences.
- (2) Uses normally accessory to residences as regulated in the R100 district.
- (3) Agricultural signs as regulated by article V of this chapter.
- (4) One roadside stand per farm for the sale only of products raised on the premises, and operated by the resident farmer and subject to the following:
  - a. Off-street parking shall be provided for a minimum of four vehicles.
  - b. No stand shall be permitted in a location where it would create a traffic hazard or nuisance and, where permitted, driveways shall be located to minimize possible interference with the normal flow of highway traffic.
  - c. No such stand shall be closer than 30 feet to the existing street line or closer than 20 feet to any other lot line.
- (5) Migratory farm labor housing, provided that the housing and site conditions at least meet minimum state standards established for such uses and, provided, a plan thereof is approved by the plan commission pursuant to section 90-1005.
- (6) The spreading of treated sewerage sludge, provided, the plan commission shall first approve any such spreading, attaching conditions as it may deem appropriate.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the AG district shall include the following:

- (1) Boarding and riding stables for horses;
- (2) Roadside farm produce stands also selling produce or products not raised on the premises;
- (3) Cemeteries;

- (4) Churches;
- (5) Dog kennels;
- (6) Fire stations;
- (7) Gas or electric transmission installations;
- (8) Parking for nonagricultural trucks and construction equipment;
- (9) Salvage yards for motor vehicles; and
- (10) Storage of treated sewerage sludge.
- (11) On-premise homeowner garage/shed(s) with a combined square footage larger than 85% of the habitable square footage of the residence subject to the following conditions:
  - a. A single family residential dwelling exists on the subject property that conforms to section 90-311 (b)(2).
  - b. The subject property meets Village municipal water requirements of section 90-311 (f).
  - c. The total number of attached, detached garages and sheds on the subject property is prohibited to exceed two.
  - d. Maximum combined square footage of all attached/detached garages and sheds is prohibited to exceed ten thousand square feet.
  - e. Maximum height of detached garages is prohibited to exceed thirty feet. Maximum side wall height is prohibited to exceed eighteen feet.
  - f. Detached garages/sheds are prohibited within the front yard setback identified as the area between the public road right-of-way and the façade of the existing residence
  - g. The minimum side and/or rear yard setbacks(s) shall be equivalent to the height of the detached garage/shed when the entire subject property frontage lacks municipal water.
  - h. The minimum side and/or rear yard setback(s) shall be twenty feet when the entire subject property frontage is improved with municipal water.
  - i. Commercial, Industrial, and non-premise homeowner personal storage use is prohibited. An annual interior inspection may be

required by building, fire, and/or planning departments to ensure that garages and shed(s) are not being used for the above purposes. The minimum citation forfeiture for the aforementioned violations shall be \$6,125.

- j. A grading and stormwater drainage plan prepared by a State of Wisconsin professional engineer shall be submitted and reviewed/approved by the Village prior to issuance of any fill and/or building permits.

(e) *Special regulations.* Recorded vacant lots, platted for the purposes of residential development nonaccessory to an agricultural use existing on the effective date of the ordinance from which this chapter is derived, may only be built upon in the AG district if:

- (1) The lot cannot be returned to agricultural use by virtue of damage done to the land as part of subdividing, or its remote accessibility to farming as a result of surrounding roads and housing.
- (2) The soils are suitable for on-site sewage disposal, as verified by the issuance of necessary village and other required permits for such use.
- (3) Information regarding subsections (e)(1) and (2) of this section is presented to the plan commission for review, and the plan commission makes a finding that such conditions prevail, and that there are no other reasons why the subject lot should not be built upon, including the widening or extending of highways, etc. The plan commission shall indicate in its findings what district standards should be applied for open space yard spaces, etc.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.8(1); Ord. No. 11-2008, 7-14-2008)

**Secs. 90-312--90-330. Reserved.**

### **Subdivision III.**

#### **W-Wetland District**

**Secs. 90-331--90-350. Reserved.**

### **Subdivision IV.**

#### **PUL Public or Utility Lands\***

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\* **Cross References:** Utilities, ch. 82.

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#### **Sec. 90-351. Established.**

(a) *Statement of intent.* The PUL public or utility lands district is intended to eliminate the ambiguity of maintaining an unrelated use district for areas which are under public or public utility ownership and where the use for public purpose is anticipated to be permanent. To qualify for the PUL district, land must be owned by the municipal, county, state or federal government, or any agency thereof, or by a public utility subject to the jurisdiction of such regulatory bodies as the public service commission or state aeronautics board.

(b) *Permitted uses by right.* Permitted uses by right in the PUL district shall include the following:

- (1) Public schools, libraries, museums, auditoriums, art galleries, concert halls or similar facilities designed to serve the educational or cultural needs of the community.
- (2) Public administrative offices and public service buildings, including fire and police stations.
- (3) Public parks and recreational areas, but not including facilities for organized athletics, except as a permitted conditional use.
- (4) Public parking lots.
- (5) Public utility offices, installations, and transmission and distribution facilities.
- (6) Airports.

(c) *Permitted accessory uses.* Permitted accessory uses in the PUL district shall include the following:

- (1) Residential quarters for employees or caretakers.
- (2) Garages for the storage of vehicles used in conjunction with the operation of the permitted facility.
- (3) Parking and service areas and structures serving the employees or for the public using the permitted facility.
- (4) Signs as regulated in article V of this chapter.
- (5) Service buildings and facilities normally accessory to the principal use permitted.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional in the PUL district shall include the following:

- (1) Public service yards.
- (2) Public parking structures.
- (3) Public penal, reform, disciplinary and mental institutions.
- (4) Public hospitals, sanitariums and homes for the aged.
- (5) Military installations.
- (6) Public outdoor recreational facilities for organized athletics.

(e) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.8(3); Ord. No. 11-2008, 7-14-2008)

**Secs. 90-352--90-370. Reserved.**

## **Subdivision V.**

### **R100 Residential Single-Family**

**Sec. 90-371. Established.**

(a) *Statement of intent.* The R100 residential single-family district is intended to provide for high quality, moderate density residential development of a suburban character, limited to single-family homes set individually on separately sewered lots. The existence of considerable development in the R100 district having much larger lots than required in this section makes it possible to permit certain rural uses as accessory uses, such as the keeping of horses and livestock.

(b) *Permitted uses by right.* Permitted uses by right in the R100 district shall include the following:

- (1) Single-family dwellings. On sewered lots, the area required in article VII (see sections 90-1001--90-1006) shall apply. On unsewered lots, the greater lot area required to meet the minimums established in applicable state or local sanitary regulations for on-site soil absorption sewage disposal systems shall be increased only in multiples of the article VII (see sections 90-1001--90-1006) requirements to facilitate later redivision to sewered lot standards.
- (2) Public or private parks and recreation areas, but not including facilities for organized athletics, except as a permitted conditional use.
- (3) Cluster developments. (See section 90-891.)
- (4) Public utility transmission and distribution lines, poles and other related accessories, provided that when a utility proposes a main intercity transmission facility, the utility shall give notice to the plan commission of such intention and the date of hearing before the public service commission and, before beginning construction of a specific route, shall file with the plan commission a mapped description of the route of such transmission line.

(c) *Permitted accessory uses.* Permitted accessory uses in the R100 district shall include the following:

- (1) Private garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, except a permitted home occupation, residential business or conditional use, provided that no

such garage shall be erected prior to the erection of the principal building to which it is accessory.

- (2) Quarters for household employees, provided that such quarters shall be occupied only by individuals employed full-time on the premises and their families.
- (3) Home occupations and residential businesses as defined and regulated in section 90-9.
- (4) Signs as regulated in article V of this chapter, except that residential business signs may be permitted as set forth in section 90-9.
- (5) Home gardening and horticulture not involving greenhouses in excess of 500 square feet in area.
- (6) Service buildings and facilities normally incidental to the use of a public park or recreation area.
- (7) Keeping or raising of domestic livestock for show, breeding or other use incidental to the principal use of the premises, subject to the following:
  - a. The keeping or raising of hogs or fur bearing animals shall not be permitted.
  - b. Not more than one head of livestock and 20 fowl shall be permitted per 40,000 square feet of lot area, nor shall any such livestock or fowl be permitted on a lot less than 120,000 square feet in area, except that horses may be kept on a lot of not less than 80,000 square feet in area.
  - c. Stables, barns, poultry houses or similar structures not in excess of 1,000 square feet are permitted, provided that no building housing domestic livestock or poultry shall be closer than 25 feet to any lot line.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the R100 district shall include the following:

- (1) Public and private noncommercial recreational facilities involving organized athletics.
- (2) Public and private schools.
- (3) Churches and other religious institutions.

- (4) Public administrative offices and service buildings.
- (5) Private lodges and clubs.
- (6) Nursing and rest homes for the aged.
- (7) Public utility offices and installations, including electric and gas transmission lines and substations, municipal water towers, pump houses, and water and sewerage treatment plants.
- (8) Two-family residences, where the second unit does not exceed 60 percent of the floor area of the principal unit; its occupancy is intended for a family member related by blood, adoption or marriage to the occupants of the principal unit; at least one entrance to the second unit is through the principal unit; and the overall appearance of the structure resembles that of a single-family residence.
- (9) On-premise homeowner garage/shed(s) with a combined square footage larger than 85% of the habitable square footage of the residence subject to the following conditions:
  - a. A single-family residential dwelling exists on the subject property that conforms to section 90-311(b)(2).
  - b. The subject property contains a minimum of one acre and is located outside of a final subdivision plat.
  - c. The subject property meets village municipal water requirements of section 90-311(f).
  - d. The total number of attached, detached garages and sheds on the subject property is prohibited to exceed two.
  - e. Maximum combined square footage of all attached/detached garages and sheds is prohibited to exceed ten percent total lot coverage.
  - f. Maximum height of detached garages is prohibited to exceed twenty-eight feet. Maximum side wall height is prohibited to exceed 16 feet.
  - g. Detached garages/shed(s) are prohibited within the front yard setback identified as the area between the public road right of way and the façade of the existing residence.

- h. The minimum side and/or rear yard setback(s) shall be equivalent to the height of the detached garage/shed when the entire subject property frontage lacks municipal water.
- i. The minimum side and/or rear yard setback(s) shall be twenty feet when the entire subject property frontage is improved with municipal water.
- j. Commercial, industrial, and non-premise homeowner personal storage use is prohibited. An annual interior inspection may be required by building, fire and/or planning departments to ensure that garages and shed(s) are not being used for the above purposes. The minimum citation forfeiture for the aforementioned violations shall be \$6,125.
- k. A grading and stormwater drainage plan prepared by a State of Wisconsin professional engineer shall be submitted and reviewed/approved by the village prior to issuance of any fill and/or building permits.

(e) *Minimum home sizes.* The following shall be applicable to all legally created lots after May 9, 2005:

- (1) The minimum square footage of homes shall be as follows:
  - a. Single story homes (one level): 1,800.
  - b. Any home having more than one story (level) not including basement: 2,000.
  - c. The village summary of area requirements shall be amended accordingly.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and

- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.11(1); Ord. No. 8-2005, 5-9-2005; Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-372--90-390. Reserved.**

## **Subdivision VI.**

### **R75 Residential Single-Family**

**Sec. 90-391. Established.**

(a) *Statement of intent.* The R75 residential single-family district is intended to provide for moderately high quality residential development of an urban character, limited to single-family homes set individually on separate sewerer lots, with use regulations identical to the R100 district.

(b) *Permitted uses by right.* Permitted uses by right in the R75 district shall be all uses permitted by right in the R100 district.

(c) *Permitted accessory uses.* Permitted accessory uses in the R75 district shall be all accessory uses permitted in the R100 district.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the R75 district shall be all conditional uses permitted in the R100 district.

(e) *Minimum home sizes.* The following shall be applicable to all legally created lots after May 9, 2005:

- (1) The minimum square footage of homes shall be as follows:
  - a. Single story homes (one level): 1,500.
  - b. Any home having more than one story (level) not including basement: 1,700.
  - c. The village summary of area requirements shall be amended accordingly.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.11(2); Ord. No. 7-2005, 5-9-2005; Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-392--90-410. Reserved.**

## **Subdivision VII.**

### **R60 Residential Single-Family**

**Sec. 90-411. Established.**

(a) *Statement of intent.* The R60 residential single-family district is intended to provide for moderate quality residential development of an urban character, limited to single-family homes set individually on separate lots, with use regulations similar to the R100 district, except that the rural accessory uses are permitted only as conditional grants.

(b) *Permitted uses by right.* Permitted uses by right in the R60 district shall include all uses permitted by right in the R100 district.

(c) *Permitted accessory uses.* Permitted accessory uses in the R60 district shall include all accessory uses permitted in the R100 district, except the keeping or raising of domestic livestock as set forth in section 90-371(c)(7).

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the R60 district shall include all uses permitted by conditional grant in the R100 district, plus the keeping or raising of domestic livestock as permitted as an accessory use in the R100 district in accordance with section 90-371(c)(7).

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.11(3); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-412--90-430. Reserved.**

### **Subdivision VIII.**

#### **R50MH Residential Mobile Home**

**Sec. 90-431. Established.**

(a) *Statement of intent.* The R50MH residential mobile home district is intended to provide for single-family housing that is totally assembled off the site and then transported to its place of occupancy. The mobile or manufactured home typically produces the same economic quality and urban character as the R60 district, but the architectural appearance of the unit, varying practices involving site leasing rather than individual lot ownership, and use of private, rather than public, streets, make it impractical to provide for such development within the R60 district, requiring, instead, a separate district with additional regulatory measures.

(b) *Permitted uses by right.* Permitted uses by right in the R50MH district shall include the following, subject to approval of the plans, as defined in subsection (e) of this section, by the plan commission under the standards of section 90-1005:

- (1) Mobile home dwellings.
- (2) All uses permitted by right in the R100 district.

(c) *Permitted accessory uses.* Permitted accessory uses in the R50MH district shall include the following:

- (1) All accessory uses permitted in the R60 district.
- (2) Recreational, service or management buildings incidental to the permitted mobile home uses.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the R50MH district shall include all conditional uses permitted in the R100 district, except as set forth in section 90-371(d)(8).

(e) *Special regulations.*

(1) *Development plan approval.*

- a. Where the proposed development will not be platted to utilize lots or public streets, before proceeding with any development, the owner shall submit to the plan commission, for approval, plans and data equivalent to the platting requirements of statute and chapter 74 of this Code, for the purpose of determining proper surface water drainage, building and road grades, paving standards and proper essential utility services. The degree of detail may be divided into preliminary and final segments as is done in preliminary and final platting.
- b. Where lots will not be platted, lines defining roadways, pedestrian ways and building spaces shall nevertheless be shown under subsection (e)(1)a. of this section for the purpose of establishing points of measurement for the required setbacks and offsets, and to assist the village assessor in identifying taxable building sites.
- c. Common facilities, such as park or recreation areas and service buildings, shall be shown on a plan which also identifies the general landscape treatment and building architecture. The standards of section 90-891(b) shall be applied, where appropriate.
- d. Typical site plans for a mobile home space or lot, showing landscaping, fencing and off-street parking, shall also be submitted for approval.

- (2) *Approval of mixed uses.* Inclusion of the uses permitted under subsection (b)(2) of this section shall be subject to plan commission approval, under the standards set forth in section 90-1005, where the plan commission shall give particular attention to the compatibility of appearance between the proposed arrangement of conventional housing and other uses with the mobile home units.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.11(4); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-432--90-450. Reserved.**

## **Subdivision IX.**

### **R40E Residential (Existing Limited)**

**Sec. 90-451. Established.**

(a) *Statement of intent.* The R40E residential (existing limited) district is intended to provide legal conforming status to extensive areas of the village developed many decades ago at intensely urban densities no longer used for new single-family development, such densities now being reserved instead for two-family and multiple-family style development, but where redevelopment is not as imminent as in areas zoned in the RCH district.

(b) *Permitted uses by right.* Permitted uses by right in the R40E district shall include the following:

- (1) Residential uses present in the district on their lots of record existing on the effective date of the ordinance from which this chapter is derived, including the right to remodel and expand existing principal and existing structures in conformity with the area regulations under this chapter.
- (2) New single-family residences, provided that where structures existing on the effective date of the ordinance from which this chapter is derived on either side of a lot have setbacks less than required under this chapter, an average setback of such existing setbacks with that required by the R40E district may be permitted for the proposed new structure.

- (3) Other uses permitted in the R100 district under section 90-371(b)(2) and (b)(4).

(c) *Permitted accessory uses.* Permitted accessory uses in the R40E district shall include all accessory uses permitted in the R60 district.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the R40E district shall include all conditional uses permitted in the R60 district.

(e) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.11(5); Ord. No. 11-2008, 7-14-2008)

**Secs. 90-452--90-470. Reserved.**

## **Subdivision X.**

### **Residential Two-Family**

**Sec. 90-471. Established.**

(a) *Joint statement of intent.* The R100D, R75D and R60D residential two-family districts are intended to repeat all of the use regulations of the similarly named districts as set forth in subdivisions V--VII of this division, except such districts add the permissibility of two-family residences on the same sized lots, with modified area regulations as shown in this chapter. Permitted uses are also stated jointly.

(b) *Permitted uses by right.* Permitted uses by right in the R100D, R75D and R60D districts shall include:

- (1) All permitted uses by right as permitted in the equivalent single-family district, as follows:
  - a. R100D district as in the R100 district.
  - b. R75D district as in the R75 district.

c. R60D district as in the R60 district.

(2) Two-family dwellings.

(c) *Permitted accessory uses.* The R100D, R75D and R60D districts permit all accessory uses permitted in the equivalent single-family districts, as follows:

(1) R100D district as in the R100 district.

(2) R75D district as in the R75 district.

(3) R60D district as in the R60 district.

(d) *Permitted uses by conditional grant.* The R100D, R75D and R60D districts permit all uses by conditional grant as permitted in the equivalent single-family district, as follows, except that section 90-371(d)(8) is superseded by the two-family uses permitted by right in these two-family districts:

(1) R100D district as in the R100 district.

(2) R75D district as in the R75 district.

(3) R60D district as in the R60 district.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

(1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and

(2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and

(3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.12; Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-472--90-490. Reserved.**

## **Subdivision XI.**

### **RM-1 Multiple-Family (Garden Apartments and Townhouses)**

#### **Sec. 90-491. Established.**

(a) *Statement of intent.* The RM-1 multiple-family district (garden apartments and townhouses) is intended to principally provide for family type occupancy in multiple dwellings constructed at the lowest end of the urban multiple-family density range, where the emphasis on unit design is toward fewer units per building, and few units per entrance, larger individual units having, in the case of townhouses, private entrances and storage for children's equipment, and where the site development shows concern for adequate children's play areas, shielded from traffic, and pedestrian ways toward schools. In many cases, the RM-1 district will be placed near community facilities that serve families, such as schools and parks. In certain other instances, the RM-1 district will provide areas for spacious high quality developments, often sold as condominiums, to be located in areas of very high residential appeal and intended to serve residents compatible to those residing nearby.

(b) *Permitted uses by right.* Permitted uses by right in the RM-1 district shall include the following:

- (1) Multiple-family dwellings of not less than two dwellings, nor more than eight dwellings per structure, subject to approval by the plan commission of building, site and operational plans, per section 90-1005.
- (2) Public parks and recreation areas, but not including facilities for organized athletics, except as a permitted conditional use.
- (3) Public utility transmission and distribution lines, poles and other accessories, provided that when a utility proposes a main intercity transmission facility, the utility shall give notice to the plan commission of such intention and the date of hearing before the public service commission, and before beginning construction of a specific route, shall file with the plan commission a mapped description of the route of such transmission line.
- (4) Single-family dwellings existing on the effective date of the ordinance from which this chapter is derived. Any lot to be created for such dwellings within the RM-1 district shall be approved by the plan commission as to the setbacks and offsets that will result, but shall, in any case, at least meet the R60 standards.

(c) *Permitted accessory uses.* Permitted accessory uses in the RM-1 district shall include the following:

- (1) Garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation, residential business or conditional use exclusively serving the occupants of the premises, their guests and service employees.
- (2) Signs as regulated in article V of this chapter.
- (3) Recreational and service buildings incidental to the permitted uses.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the RM-1 district shall include all uses permitted by conditional grant in the R100 district, except two-family residences as set forth in section 90-371(d)(8), which is superseded by the permitted uses by right of the RM-1 district.

(e) *Special regulations.*

- (1) The plan commission shall not approve building plans which do not treat all exterior walls of all structures permitted in the RM-1 district with acceptable materials that present an equally finished facade to all sides.
- (2) Buildings not exceeding 12 units per structure may be approved by the plan commission, provided, the specific architectural design and site treatment is not at variance with the statement of intent as set forth in subsection (a) of this section.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.13(1); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-492--90-510. Reserved.**

## **Subdivision XII.**

### **RM-2 Multiple-Family (Low Rise Apartments)**

#### **Sec. 90-511. Established.**

(a) *Statement of intent.* The RM-2 multiple-family district (low rise apartments) is intended to provide for adult type occupancy in multiple dwellings constructed at a higher density than the RM-1 district because the emphasis on occupancy is shall family units or individuals, where less space per unit is required in terms of land and buildings, but where outside surface parking is still involved, thereby preventing the higher density of the RM-3 and RM-4 districts. The RM-2 district will often occur near principal traffic arteries and shopping facilities, and near work opportunities. The possibility of some child occupants, and the need to relate the bulk of the structures to single-family and two-family development which will typically also be nearby, requires a limitation on the height of buildings and the number of units per structure, as in the RM-1 district.

(b) *Permitted uses by right.* Permitted uses by right in the RM-2 district shall include the following:

- (1) Multiple-family dwellings of not less than two, nor more than 16 dwelling units per structure, subject to approval by the plan commission of building, site and operational plans, per section 90-1005.
- (2) All other uses permitted by right in the RM-1 district.

(c) *Permitted accessory uses.* Permitted accessory uses in the RM-2 district shall include all accessory uses permitted in the RM-1 district.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the RM-2 shall include all uses permitted by conditional grant in the RM-1 district.

(e) *Special regulations.* The same special regulations of the RM-1 district shall apply to the RM-2 district, except that buildings with up to 24 units may be approved by the plan commission.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and

(2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and

(3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.13(2); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-512--90-530. Reserved.**

### **Subdivision XIII.**

#### **RM-3 Multiple-Family (High Density Low Rise Apartments)**

**Sec. 90-531. Established.**

(a) *Statement of intent.* The RM-3 multiple-family district (high density low rise apartments) is intended to provide for adult type occupancy in multiple dwellings constructed at the highest densities permissible within the established height limitation, but where such density can only be achieved and still meet the needs for surface open space by requiring substantial underground parking.

(b) *Permitted uses by right.* Permitted uses by right in the RM-3 district shall include multiple-family dwellings of not less than two, nor more than 36 dwelling units per structure, having at least one parking space per dwelling, which parking space shall be located under the building or placed underground so that the top surface is usable open space at or near ground grade.

(c) *Permitted accessory uses.* Permitted accessory uses in the RM-3 district shall include all accessory uses permitted in the RM-1 district.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the RM-3 district shall include all uses permitted by conditional grant in the RM-1 district.

(e) *Special regulations.* The same special regulations of the RM-1 district shall apply to the RM-3 district, except that buildings with more than 36 units per structure may be permitted by the plan commission if, in the plan commission's judgment, an institutional character is not thereby substituted for the intended residential nature of the RM-3 district. The plan commission shall base its judgment on architectural appearance, such as building mass and fenestration, units per entrance, accessibility of the units to the open space and guest parking, placement of structures on the site, including the degree of required changes in the existing natural terrain, and other such factors which, in the plan commission's experience, become pertinent (see section 90-1001(h)).

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.13(3); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-532--90-550. Reserved.**

#### **Subdivision XIV.**

##### **RM-4 Multiple-Family (Medium Rise Apartments)**

**Sec. 90-551. Established.**

(a) *Statement of intent.* The RM-4 multiple-family district (medium rise apartments) is intended to provide adult type occupancy in multiple dwellings served with elevators and constructed to minimize land area occupied, in order to achieve height, with some underground parking required to meet the needs for surface open space.

(b) *Permitted uses by right.* Permitted uses by right in the RM-4 district shall include the following:

- (1) Multiple-family dwellings for at least four dwelling units per structure, having at least seven-tenths of one parking space for every dwelling, which parking space shall be located under the building or placed underground so that the top surface is usable open space at or near ground grade, subject to approval by the plan commission of building, site and operational plans per section 90-1005.
- (2) All other uses permitted by right in the RM-1 district.

(c) *Permitted accessory uses.* Permitted accessory uses in the RM-4 district shall include all accessory uses permitted in the RM-1 district, including commissaries and similar limited retail and customer service uses, if the principal support for their successful operation is intended to come from tenants of the approved project.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the RM-4 district shall include all uses permitted by conditional grant in the RM-1 district.

(e) *Special regulations.* The plan commission shall not approve building plans which do not treat all exterior walls of all structures permitted in the RM-4 district with acceptable materials that present an equally finished facade to all sides.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *Municipal water.* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.13(4); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-552--90-570. Reserved.**

## **Subdivision XV.**

### **B-1 Neighborhood Business\***

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\* **Cross References:** Licenses and permits, ch. 46.

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**Sec. 90-571. Established.**

(a) *Statement of intent.* The B-1 neighborhood business district is intended to provide for individual or small groups of retail and customer service establishments, primarily serving

the convenience of a local neighborhood, and the character, appearance and operation of which are compatible with the character of the surrounding area, which, in most cases, will be residential.

(b) *Permitted uses by right.* Permitted uses by right in the B-1 district shall include:

- (1) The following, subject to approval by the plan commission of the building, site and operational plans per section 90-1005:
  - a. Retail stores and shops offering convenience goods and personal services and not exceeding 1,500 square feet of primary floor area.
  - b. Business, professional or public service offices not exceeding 1,000 square feet of primary floor area.
  - c. Customer service establishments, such as restaurants not serving liquor, shoe repair shops, barbershops and beauty shops, studios and similar uses not exceeding 1,000 square feet of primary floor area.
- (2) Public utility transmission and distribution lines, poles and other accessories, provided that when a utility proposes a main intercity transmission facility, the utility shall give notice to the plan commission of such intention and the date of hearing before the public service commission, and before beginning construction of a specific route, shall file with the plan commission a mapped description of the route of such transmission line.

(c) *Permitted accessory uses.* Permitted accessory uses in the B-1 district shall include the following, subject to approval by the plan commission of building, site and operational plans per section 90-1005:

- (1) Garages for the storage of vehicles used in conjunction with the operation of the business.
- (2) Off-street parking and loading areas (see sections 90-1007--90-1014).
- (3) Signs, subject to the provisions of article V of this chapter.
- (4) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker, which shall be located in the same building as the business.
- (5) Any other structure or use normally accessory to the principal uses permitted.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the B-1 district shall include the following:

- (1) Automobile service stations.
- (2) Rental apartments as a secondary use of a commercial building and on other than the ground floor level.
- (3) Restaurants serving liquor, taverns, bars, etc., not offering live entertainment.
- (4) Small animal veterinary clinics and accessory indoor boarding.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.9(1); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-572--90-590. Reserved.**

## **Subdivision XVI.**

### **B-2 Community Business\***

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\* **Cross References:** Licenses and permits, ch. 46.

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### **Sec. 90-591. Established.**

(a) *Statement of intent.* The B-2 community business district is intended to provide for the orderly and attractive grouping, at appropriate locations, of retail stores, offices and service establishments serving the needs of the larger community area. The size and location of

B-2 districts shall be based upon evidence of justifiable community need, adequate customer potential and satisfactory relationship to the arterial highway system and other related facilities. The impact on adjacent residential uses, because of traffic, size of buildings, hours of operation and the need for some arrangement of the uses within the district with respect to compatibility, will require plan commission approval of specific development plans.

(b) *Permitted uses by right.* Permitted uses by right in the B-2 district shall include:

- (1) Any use as permitted by right in the B-1 district, subject to approval by the plan commission of building, site and operational plans.
- (2) The following, subject to approval by the plan commission of building, site and operational plans:
  - a. Retail stores and shops.
  - b. Community and customer service establishments, such as, but not limited to, the following:
    1. Business, professional, public service, banking and savings and loan offices.
    2. Restaurants, taverns, theaters, bowling alleys, nightclubs and other indoor commercial entertainment facilities.
    3. Automobile service stations, laundromats, coin-operated dry cleaning establishments and laundry or dry cleaning pickup stations.
    4. Dental and medical clinics.
    5. Lodges and private clubs.
  - c. Vocational training schools.
  - d. Public utility offices and installations.

(c) *Permitted accessory uses.* Permitted accessory uses in the B-2 district shall include the following, subject to approval by the plan commission of building, site and operational plans:

- (1) Any accessory use permitted in the B-1 district.
- (2) Signs, subject to the provisions of article V of this chapter.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the B-2 district shall include the following:

- (1) Any conditional use permitted in the B-1 district.
- (2) Any use permitted by right in the B-3 district.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.9(2); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-592--90-610. Reserved.**

## **Subdivision XVII.**

### **B-3 General Business\***

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\* **Cross References:** Licenses and permits, ch. 46.

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**Sec. 90-611. Established.**

(a) *Statement of intent.* The B-3 general business district is intended to provide for the orderly and attractive grouping, principally in general business parks, of a widely diversified range of commercial uses, including those of a more general retail and wholesale nature, and including both small and large establishments. The uses to be located in the B-3 district traditionally need individually owned sites near other major commercial activities and on

important traffic arterials, but do not rely on interchange of customers with adjacent uses as commonly as B-2 uses. To discourage the stripping of such uses along the principal arterials, thereby impeding traffic flow thereon, the B-3 district should be restricted, as much as possible, to well located, properly planned subdivisions for individual businesses, which shall be referred to as "general business parks."

(b) *Permitted uses by right.* Permitted uses by right in the B-3 district shall include:

- (1) Any uses, subject to approval by the plan commission of building, site and operational plans, as permitted by right or by conditional grant in the B-2 and B-2 districts, except for rental apartments as a secondary use.
- (2) The following, subject to approval by the plan commission of building, site and operational plans:
  - a. General merchandising and wholesaling establishments.
  - b. Printing and publishing houses and related activities.
  - c. Commercial parking facilities, as well as service and sales establishments for automobiles, including body repair shops and used car lots, but not including the storage of junked or wrecked automobiles and parts.
  - d. Transportation terminals, not including trucking.
  - e. All uses permitted in the OOS district.
  - f. All highway service uses as enumerated in the OHS district.

(c) *Permitted accessory uses.* Permitted accessory uses in the B-3 district shall include any accessory use, including signs, as permitted in the districts enumerated under permitted principal uses, as well as any other uses customarily associated with the permitted uses of the B-3 district.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the B-3 district shall include the following:

- (1) Lumber and building supply yards, cabinet making and similar small manufacturing or repair shops.
- (2) Experimental, testing and research laboratories.
- (3) General warehousing.
- (4) Small animal veterinary clinics and accessory indoor boarding.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.9(3); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-612--90-630. Reserved.**

## **Subdivision XVIII.**

### **B-4 Office\***

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\* **Cross References:** Licenses and permits, ch. 46.

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**Sec. 90-631. Established.**

(a) *Statement of intent.* The B-4 office district is intended to provide for individual sites, or for planned groupings on single larger sites or on subdivided larger sites, of office buildings and related service uses serving the needs of both the neighborhood and the larger community area. The plan commission's approval of the building, site and operational plans of each such building proposal will be necessary to achieve a satisfactory relationship of the office use and its operating characteristics to possible adjacent residential uses, the arterial highway system and, in some cases, adjacent retail and customer service uses where shared parking is likely and some interchange may occur between such various uses.

(b) *Permitted uses by right.* Permitted uses by right in the B-4 district shall include offices, whether for single- or multiple-tenant use, including business, professional, governmental or other institutional occupancy, as well as for medical and dental clinics, subject to approval by the plan commission of building, site and operational plans per section 90-1005.

(c) *Permitted accessory uses.* Permitted accessory uses in the B-4 district shall include the following, subject to approval by the plan commission of building, site and operational plans per section 90-1005:

- (1) Incidental service uses, such as product or service display areas, warehousing and repair services, and customer or employee services, including restaurants, cafeterias, studios or instructional areas, provided that such uses are accessory or subordinate to the principal office use by not comprising cumulatively more than 30 percent of the floor area.
- (2) Off-street parking and loading areas (see sections 90-1007--90-1014).
- (3) Signs subject to the same regulations as the B-1 district.
- (4) Any other structure or use normally accessory to the principal permitted uses.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the B-4 district shall include the following:

- (1) Banks, savings and loans, credit unions and similar financial service facilities.
- (2) Rental apartments as a secondary use of a commercial building on other than the ground floor level.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.9(4); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-632--90-650. Reserved.**

## **Subdivision XIX.**

### **B-P Business Park\***

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\* **Cross References:** Licenses and permits, ch. 46.

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#### **Sec. 90-651. Established.**

(a) *Statement of intent.* The B-P business park district is intended to provide space where diverse individual office, retail and customer service uses may be mixed with industrial uses, at locations where the district is highly visible and accessible to one or more main traffic arteries, and all of the uses seek or require such exposure, accessibility and diversity, for which they are willing to help achieve basic compatibility with each other by adhering to high district-wide standards of building architecture and design and grounds appearance, maintaining highly landscaped parcels free of outside storage or display.

(b) *Permitted uses by right.* Permitted uses by right in the B-P district shall include any use permitted by right or conditional grant in the B-1, B-2, B-3, B-4 and M-1 basic use districts and the office and special service (OOS) and highway service (OHS) overlay use districts, subject to approval by the plan commission of building, site and operational plans per section 90-1005, and unless prohibited under subsection (c) of this section.

(c) *Prohibited uses.* Notwithstanding subsection (b), (d) and (e) of this section, the following uses and those of a similar character are prohibited within the B-P district:

- (1) Animal processing;
- (2) Caretaker or other residential uses;
- (3) Freight transfer stations or trucking terminals;
- (4) Mini-warehousing (self-storage);
- (5) Motor vehicle body repair;
- (6) Uses with outside storage or display;
- (7) Prurient adult only establishments. For the purpose of this subsection, the term "adult only establishments" means uses which, as a substantial portion of their trade, feature books, videos, games, entertainment, motion picture viewing or personal services which emphasize sexual activities or the sexual anatomy for the purpose of prurient gratification of the customer;

(8) Uses, including restaurants, motels, or vehicle services which are significantly oriented to trucking patronage;

(9) Salvage or recycling operations.

(d) *Permitted accessory uses.* Permitted accessory uses in the B-P district shall include, subject to approval by the plan commission of building, site and operational plans, any accessory uses permitted by the basic or overlay use districts as set forth in subsection (b) of this section, including signs, if customarily associated with the permitted use, but excluding uses involving outside storage or display or an accessory building.

(e) *Permitted uses by conditional grant.*

(1) Motor fuel sales oriented to trucking patronage.

(2) Industrial, warehousing, shipping, and manufacturing building with a height greater than 40 feet but not greater than 60 feet.

(f) *Special regulations.*

(1) Within the B-P district, the plan commission, in following the provisions of section 90-1005, shall not approve building plans which do not treat all exterior walls of all structures with acceptable materials that present an equally finished facade to all sides.

(2) Necessary loading docks and enclosed waste storage awaiting pickup shall be especially well treated in terms of site placement and screening, ordinarily avoiding the placement of loading docks facing the street frontage, unless the dock wall is set back more than 100 feet and is substantially screened from street view.

(3) Under article VII (see sections 90-1001--90-1006), the maximum height limit as given in such article sections shall not preclude structures for offices and hotels from being approved at a maximum height of 60 feet.

(g) *Site development standards.* The primary objective of the site development standards is to control and direct the planning and design of the built environment so as to enhance its visual character and maintain property values. These standards will also help foster sound, functional development that recognizes the residential, commercial, and industrial/manufacturing character of property along arterial and collector streets within the village. Pertinent to the visual character of the area is site design, architectural treatment, parking and site access, landscaping, signage and lighting, establishing and maintaining property values.

Some standards are identified as "mandatory," which indicates that full compliance with these standards are specifically required by ordinance; or "recommend," which indicates that these standards are to be used as guidelines by the village planning staff and plan commission to

achieve compatible and unified site development. Full compliance with recommended standards can be required as part of the approval process.

These site development standards are only to be used for nonresidential development. The proceeding pages detail the commercial, industrial and/or manufacturing zoning districts currently established in the Village. These zoning districts provide a guideline for potential uses within these zoning classifications. These site development standards are an addition to the already existing zoning regulations. (See Chapter 90 Article VII for Supplemental Regulations.)

(h) *Site design considerations.* Site design is primarily concerned with sitting of a building on a parcel of land and the visual relationship with the site and with adjacent and surrounding building sites. Site design is addressed by the following:

- (1) *Setback requirements.* Setbacks are provided on each lot from abutting street rights-of-ways for both buildings and parking. The setback areas are important in allowing open space, and particularly green space along roadways, which enhances the visual character of the development.
  - a. Fifty feet from I-94 and frontage roads measured from the state road right of way;
  - b. Fifty feet for all other public streets.
- (2) *Parking setback.* Within the required building setback, no off-street parking, paved area, loading dock, or refuse collection is permitted closer to the street right-of-way than the following distance:
  - a. Fifty feet along arterial streets;
  - b. Twenty-five feet along collector streets.
- (3) *Off-street requirements.* Building and parking offsets are required along lot lines other than street rights-of-way, and provide for open space, on-site circulation, and for parking offsets, provide for green space on the perimeter of the site.
  - a. The following are the minimum distances required for building offsets in each district:
    - i. (B-1--B-4) 15 feet; 25 feet from a residential district;
    - ii. (B-P, M-1) 25 feet; 50 feet from a residential district.
  - b. Within the required building offset; no off-street parking or paved area is permitted closer to the lot line than the following distance in each district:

- i. (B-1--B-4) 15 feet; 35 feet from a residential district; except that an existing offset of less than 35 feet may be continued where a continuous year round landscape screen shall consist of a combination of deciduous and evergreen trees and shrubs with a height of 12 feet and depth of ten feet.
  - ii. (B-P, M-1) 25 feet; 75 feet from a residential district.
- c. Because of their impact on adjoining residential areas certain intensive commercial and institutional uses should have offsets in proximity to residential uses. Intensive uses are those that have extended hours of operation, high volumes, or rapid turnover of vehicular traffic, or extensive service requirements. The following are classified as intensive uses:
  - i. Restaurant (full service, carry-out or fast food);
  - ii. Automobile service, sales and repair;
  - iii. Automobile service station or mini-mart;
  - iv. Theater, dance hall or other amusement place;
  - v. Medical clinic providing extended hours for outpatient or emergency service;
  - vi. Grocery store or convenience store;
  - vii. Health clubs;
  - viii. Tavern;
  - ix. Mini-warehouse;
  - x. Full-service department store;
  - xi. Lockers and cold storage plants;
  - xii. Hotel or motel;
  - xiii. Animal hospitals and kennels;
  - xiv. Contractors shops and yards;
  - xv. Manufacturing, processing or other industrial use;

- xvi. Wholesale establishments or distributors;
- xvii. Uses which are similar to the above uses in having extended hours of operation, extensive service requirements or rapid turnover of customers;

For any intensive use, the minimum distance between any building, paving, loading docks, or refuse collection areas and any contiguous residential district in 100 feet. The minimum distance between any off-street parking, driveways, loading spaces or paved surface in 75 feet.

Landscaping and berming shall be provided and maintained to a minimum height of eight feet. The maximum slope of any berming shall not be greater than a ratio of 3:1. Landscaping shall consist of a combination of deciduous and evergreen trees and shrubs to provide a continuous year-round screen for a depth of 25 feet within the landscaped area; and appropriate ground cover and other plant material shall be in the remainder of the landscaped area.

- (4) *Building area and site coverage.* The amount of building area and site coverage are basic design parameters which affect the density, market value, and amount of open space on a site. These parameters are determined by the following standards for floor area ratio (FAR), lot coverage, and landscaped surface ratio, establishing a market value per development acre.
  - a. The floor area ratio is used to indicate the total floor area of a building or buildings, which may be allowed on a site or lot, expressed as a percentage of total floor area to area of the site or lot.
    - i. Not to exceed 40 percent for all uses.
    - ii. Not to exceed 40 percent for office uses and 45 percent for light industrial uses.
    - iii. Not to exceed 40 percent for retail.
  - b. Lot coverage is the percentage ratio of gross total site or gross lot area covered with buildings (principal or accessory) and other impervious surface (e.g. driveways, parking surfaces, and loading areas). The following are the appropriate maximum lot coverage for each district; a lesser lot coverage may be necessary on sites or lots adjacent of residential districts to meet other site requirements and allow for transitional offsets and buffering.

- i. Eighty percent for all uses.
  - ii. Eighty percent for office uses and 85 percent for light industrial uses.
  - iii. Eighty percent for retail uses.
- c. The landscape surface ratio is the percentage ratio of landscaped open space (i.e. covered with grass, shrubs, trees, and other plant material) to the gross total site or gross lot area. The following are minimum landscaped area ratios for each district. A greater landscaped area ratio may be necessary for sites or lots adjacent to residential districts to provide transitional offsets and buffering.
  - i. Twenty percent for all uses.
  - ii. Twenty percent for office uses and 25 percent for light industrial uses.
  - iii. Twenty percent for retail.

(i) *Architectural treatment.* The image of an area is influenced to a large degree by the design character or architecture of its buildings.

- (1) *Massing/scale.* The massing of a building refers to the overall bulk or volume of space that a building encloses. Scale is conveyed by elements of the building facade where doorways, windows, and details enable people to gauge its relative size and character in relationship to the size of the human body.
  - a. Scale proposed buildings to be compatible with the overall massing and the individual parts of adjacent buildings, especially adjacent to residential areas. Use similarly sized and proportioned window openings, floor heights, and details that are scaled to human proportions. (e.g. Six feet.)
  - b. Building heights of new construction should not be more than ten percent above the height of adjacent residential buildings (or future residential buildings assumed at a 36-foot ridge height) when the building is to be located within 200 feet of a residential building, with gradual transition to the maximum building height permitted by zoning regulations. Building heights to be measured from closest ridge height to ridge height.
  - c. Transitions between adjacent residential structures and new nonresidential structures and new nonresidential structures to be

constructed should also be achieved by the incorporation of horizontal human-scale features in rooflines and building elevations.

- d. Blank building walls in areas visible from the street or adjacent residential areas are prohibited. Design facades to convey human scale through fenestration, building articulation, detailing, or landscape plantings.

(2) *Form/proportion.* The form and proportion of a building's elevation and roof are basic form-giving characteristics that are important in relating a new building to other buildings and to its setting.

- a. Stress horizontal proportions in the design of the facade, e.g. length should be longer than the height of the primary facades. Design windows, entrances, and detailing to complement the horizontal proportions of the facade.
- b. Emphasize the parts of a building to clearly show a division of roof and walls. Utilize color, materials, and or details to express this division.
- c. Building components and appurtenances including doors, windows, canopies, and trim should maintain a harmonious proportion to each other, to the building as a whole.

(3) *Fenestration/entrances.* The fenestration of building facades is the orderly arrangement of openings within the building elevations.

- a. Design openings to form a unified composition in proportion to the building elevation.
- b. Large blank walls that are exposed to view by creating horizontal and vertical interest are prohibited. Utilize fenestration and related detailing, articulation or landscaping to provide scale and relief to the building facade that can be easily identified by the viewer.
- c. Avoid oversized fenestration elements that tend to create a monumental scale unless specifically required by the type of building or relationship to its surroundings.
- d. Design entrances that are clearly visible and easily recognizable from parking lots and pedestrian circulation routes which serve the building.

- e. Use design, quality of material, scale and character of an entrance to help identify its importance and to be compatible with entrances of adjacent buildings.
  - f. Express a clear hierarchy of entrances through scale, detailing, design features or landscape treatment.
  - g. Locate entrances of freestanding buildings to be clearly visible from the adjacent road or service drive system.
- (4) *Materials/details.* Achieve a cohesive and consistent architectural character in new construction through use of exterior building materials and details that are similar to or compatible with adjacent buildings.
- a. Materials should be selected for suitability to the type of buildings and style in which they are used, and for harmony with adjoining buildings.
  - b. Buildings should have the same materials, or those which are architecturally harmonious, used for all elevations and other exterior building components wholly or partly visible from public ways.
  - c. In any building in which the structural frame is exposed to view, the structural materials should also meet these criteria.
  - d. Use a predominant facade material and a limited number of compatible secondary facade materials consistently and uniformly on all facades (front, back, and sides) of the building.
  - e. Appropriate predominant facade materials for construction of new buildings in each district are:
    - i. Building brick laid in a running bond coursing.
    - ii. Exterior masonry panels with smooth or brushed finish.
    - iii. Rib-faced or decorative faced concrete masonry units (excluding retail or office space).
    - iv. Textured concrete panels.
    - v. Non-reflective glass curtain walls.
    - vi. Wood cedar siding.

- f. Appropriate secondary facade materials (not to exceed 30 percent of each facade) to be used in detailing at the foundation, entrances, spandrels, cornices, lintels, sills, etc. are:
    - i. Wood.
    - ii. Manmade or natural stone or fieldstone.
    - iii. Exterior masonry panels or tile.
    - iv. Textured concrete masonry panels.
    - v. Glazed concrete masonry.
    - vi. Rib-faced or decorative faced concrete masonry units (excluding retail or office uses).
  - g. Appropriate secondary facade materials (not to exceed 15 percent of each facade) to be used, in detailing soffits, fascia, dormers, coping, cupolas, etc. are:
    - i. Metal or siding.
  - h. Inappropriate facade materials are:
    - i. Stucco.
    - ii. E.I.F.S. (a.k.a. "Drvlt" or "Sto").
  - i. Miscellaneous structures and objects, adjacent to a building should be compatible with the architectural style of the main buildings in scale, materials and colors.
  - j. Variation in architectural detail, or varied siting of individual buildings should be used to provide visual interest where more than one building is located on a single parcel.
  - k. Roofs: For all visible roofs, roofing materials should be high quality, standing-seam metal (minimum 24 gauge thickness), slate, cedar, or high quality dimensioned asphalt, fiberglass, or metal shingles. Roofing materials should be compatible with the architectural style of the building and with the surrounding buildings.
- (5) *Roofs.* Roofs are elements of buildings, which significantly affect the architectural character. The roof is vital to the overall design theme of a

building since it is related to its mass, scale, form and proportion.

- a. Use a roof form and shape similar to those of adjacent buildings. Appropriate roof styles are:
  - i. Flat roof with visible roof form at perimeter.
  - ii. Hip roof (retail uses).
  - iii. Gabled roof (retail uses).
  - iv. Mansard roofs are prohibited.
- b. Avoid using large roof overhangs that dominate the building.
- c. Non-flat roof forms should be visible with a minimum 3/12, 4/12 or greater preferred (retail uses).
- d. Rooflines should complement the horizontal elements of the building facade to relate to the human scale. For large buildings or a group of closely related buildings, utilize layers of interconnected roofs (retail uses).
- e. Where a long expanse of rooflines is required, utilize dormers, gables, and other variations in roof shapes that are compatible with the basic facade elements and add interest and scale to the building (retail uses).

(6) *Colors.* The color of buildings plays a vital role in the overall image of an area. The following address color so as to help provide a compatible and coherent character within an area.

- a. Establish a palette of exterior building colors for use throughout the site. The limited number of coordinated and complementary colors to be used should be subtle and harmonious. The range of colors should be wide enough to allow variety while it will be narrow enough to unify all the buildings on a site.
- b. Colors should be closely linked to the appropriate selection of exterior building materials because it is a critical design element in relating adjacent buildings and creating a compatible visual environment within an area. In general, colors should be integral rather than applied to (painted) exterior building materials.
- c. Relate buildings with colors that are compatible and complementary. When related buildings are grouped together, very

subtle changes of the color palette from one building to the next are recommended. This guideline should be followed particularly when more than two buildings are involved.

- d. Colors for predominant facade materials and for roof materials should be in a range of earth tones (e.g. cream, tans, browns, or grays) which reflect the natural character of materials.
- e. Colors for secondary facade materials should be compatible with the predominant colors, either within a complementary range of colors or in contrasting colors for accents. When such contrasting colors are utilized, but should not dominate the visual character of the setting.
- f. Downspouts, wall grilles, utility boxes and other similar appurtenances should be painted the same color as the background wall.

(7) *Service and utility areas.* Buildings require mechanical equipment and service areas that are normally unsightly and sometimes noisy. These areas include, but are not limited to, dumpsters, and mechanical equipment such as plumbing vent stacks, HVAC transformers, fans and cooling towers. The following address the treatment of service and utility areas in order to reduce the negative visual impact of such areas.

- a. Locate all service and utility areas away from the street and concealed from building entrances, pedestrian areas and adjacent residential structures.
- b. Provide adequate space for the intended use of service areas with necessary access and egress.
- c. When appropriate, consider joint use of service areas with necessary access and egress.
- d. Utilize building forms and other integral design techniques to conceal service areas from view. Locate trash compactors and dumpsters adjacent to truck loading areas and screen with walls which are coordinated with the building's architecture.
- e. Where dumpsters are not fully screened by the overall building envelope, apply the following standards:
  - i. Dumpsters shall be screened on all sides, with the operable side facing away from view from streets or adjacent residential areas.

- ii. Locate dumpsters at edges or specific use areas rather than in the middle of an open space, parking lot or along streets.
- iii. The screening of dumpster enclosures not located next to buildings should be enhanced with year round landscaping on three sides.
- iv. Acceptable dumpster enclosures include:
  - Stained or natural wooden fence.
  - Decorative concrete block.
  - Brick.
  - Fieldstone.
  - Prefabricated concrete enclosures (industrial use only).
- v. Acceptable door and gate exteriors include:
  - Metal or wood.
- vi. All enclosure materials not listed above are prohibited unless approved after review by the village plan commission or its designee.
- vii. Dumpster enclosures shall not violate the building setback and parking offset requirements of the zoning district in which the enclosure is located.
- viii. When a new dumpster enclosure is erected on a site, the color and material of the enclosure shall match the exterior wall predominant color and material of the building.
- ix. When an existing dumpster enclosure is expanded, the exterior of the addition shall match the existing enclosure in color and material.
- f. Utility service areas should be screened from public view with architectural materials and color harmonious with the building and/or with landscape plantings should be incorporated as part of a visual screen.
- g. Locate all above grade utility connections, vents, and other projections through exterior walls away from high visibility areas, such as front facades or pedestrian areas, preferably in the service area of the building. Do not locate any utility projections or equipment, such as air conditioning units or air exchangers, on the street side of the building.

- h. Rooftop mechanical equipment shall not be mounted on buildings unless the roof itself fully acts as a screen, metal screening is installed or other integral architectural treatment is provided to screen such equipment from view.

(8) *Building groupings.*

- a. Where more than one building is located on a lot, the minimum distance between the two buildings should be equal to the combined height of the two buildings.
- b. Where two or more buildings are connected by a unifying architectural element, such as walls, canopies, or arches to form an enclosed pedestrian space, the minimum spacing between buildings on the same lot could be reduced to a distance equivalent to the height of the taller structure.

(j) *Parking/site access.* Parking and site access are major concerns in the development of a well-designed site. Parking facilities and site access that are designed and located with a good relationship to the building entrance provide a positive image to the site user. The following standards apply to all zoning districts within the I-94 area plan.

- (1) *Parking location.* The locations of parking lots are important to the functional and aesthetic aspects of the buildings they serve. Most people using a building will arrive by auto, thus their first visual impression will be shaped by the sequence from the street to the door.
  - a. Coordinate parking and circulation systems to relate to building groups on the site.
  - b. Parking lots and buildings should be located to encourage joint use parking facilities where peak-hour use patterns do not conflict.
  - c. Locate parking lots convenient to building entrances, but try to avoid locations which block views of buildings.
  - d. Do not place parking lots immediately adjacent to buildings. Separate parking lots from buildings with a ten-foot to 20-foot wide space that accommodates landscape plantings and pedestrian circulation.
  - e. Minimize disruption to natural site features such as wetlands and the Hoods Creek Floodplain. If possible, incorporate existing vegetation as visual highlights or screens. New parking lots should be sited on level ground to avoid excessive grading and erosion.

- (2) *Parking layout/surface treatment.* The efficiency and safety of off-street parking lots can be improved by providing functional layouts and appropriate surface treatment with clear and direct circulation. Well-designed parking lots have a strong, positive impact on the visual quality of an area.
- a. Parking lots are to be developed as permanent facilities with required hard surface asphalt or concrete paving.
  - b. An integrated design of concrete, curb and gutter, landscape islands, directional signing, night lighting, and perimeter screening should be provided.
  - c. The parking layout should utilize 90-degree stalls with two-way traffic aisles. With limited area or a high turnover rate, 60-degree or 45-degree stalls with one-way traffic aisles may be appropriate.
  - d. The minimum dimensions of parking stalls and aisles should be:
    - i. For 90-degree parking: layout stalls of 20 feet by nine feet with 24-foot wide aisles.
    - ii. For 45-degree parking: layout stalls of nine-foot width with 20-foot length (with 12-foot wide aisles ) between stall stripes); where interior back to back stalls are used, the combined stall lengths and aisle shall be 44 feet eight inches (American Association of State Highway and Transportation Officials).
  - e. To reduce pedestrian-vehicular conflicts, orient aisles perpendicular to building entrances. If this is not feasible due to size or space requirements, islands or pavement markings should delineate internal walkways.
  - f. All parking lot driveways should be curbed to prevent access to unpaved areas.
  - g. All boundaries or edges of parking lots should be curbed to protect landscape areas from vehicle damage.
  - h. In order to reduce the visual impact of parking areas and define vehicular circulation, locate no more than 20 spaces between islands per side. The intermediate islands should be a minimum of ten feet wide measured back of curb to back of curb. Such islands should be curbed and used to define internal pedestrian and vehicular circulation patterns.

- (3) *Site access.* The guidelines for site access reflect both the need for convenient access to individual sites and the need to provide for safe and efficient traffic movement along arterial routes.
- a. Each side or lot should construct or otherwise provide for a frontage or service drive of 24 feet in width across the entire frontage of the parcel. The cross access drive shall be located outside of the minimum required landscape area. Access to, from and along the frontage or service drive should be granted by reciprocal easement.
  - b. The frontage drive can also be used to provide access to off-street parking spaces, but it shall be located in such a manner that the required parking setback is achieved. Access driveways from arterial streets to individual sites or lots should be spaced a minimum 1,500 feet apart.
  - c. Access driveways from collector streets to individual sites or lots should be spaced a minimum 300 feet apart.
  - d. No site or lot with less than 300 feet of frontage on an arterial or collector street should have more than one access driveway, or more than one additional access driveway for each 300 feet of additional frontage.
  - e. A minimum internal site vehicle stacking distance of 100 feet measured perpendicular from the property line should be provided at state highway or arterial street. Major access drives are defined as any point of access to a U.S. highway, most points of access to state highways, points of access to local arterial streets from retail or service centers, or as otherwise defined by the village plan commission or staff.

(k) *Landscaping.* Landscape plantings have architectural, engineering, climatic, and aesthetic uses that significantly affect the visual character and environmental quality of an area by performing a variety of functions in the design of the environment. Landscaping standards address the following circumstances and apply in all zoning districts in the I-94 area plan.

- (1) *Berming.* When using berms as a screen element in the landscape, the following items should be considered:
- a. Berms shall be a minimum height of four feet with a maximum side slope of 4:1 when planted in a maintained turf.
  - b. Trees should not be planted at the very top, rather they should be planted on the slope side of a berm.

- c. Berms should be designed carefully to blend in with the surrounding environment. The gradient on berms should fluctuate in order to repeat characteristics found in nature.
- d. Improperly placed berms may restrict water flow. Water must always be allowed to flow out of an area to its point of collection.
- e. Berms alter the microclimate. Plant materials selected for a berm must be tolerant of those climatic conditions (i.e. dry soil conditions).

(2) *Design standards for areas along public or private streets called "street yards".*

Definition of "street yards." These specific standards apply to all nonresidential construction including office, commercial, industrial and institutional uses that involves building or parking lot construction on an undeveloped parcel or any improvements to an existing building or parking lot and only to those portions of the property which abuts a public or private street.

The developer/owner is required to install and maintain landscape improvements within the street yard area of development. The "street yard" is a defined area of the project site, which lies between the property line abutting a public or private street to an inside setback distance of 50 feet. For those developments where a parking lot is adjacent to a public or private street, the landscape standards require a 100 percent screening buffer between the parking lot and the property line abutting the public or private street.

- (3) *Plan requirements.* To assure that the intent of the standards are accomplished, an applicant is required to submit for approval a landscape plan developed by a registered landscape design professional and following installation, a written certification that all the required landscape materials have been installed in substantial conformance with the plans as approved by the plan commission. In addition, the applicant shall submit an installation and maintenance fiscal security deposit with the village to assure full compliance with the landscape and maintenance requirements if not completed prior to issuance of a certificate of occupancy.
- (4) *Stamp and certification.* A registered landscape architect or arborist must stamp and certify in writing near the stamp that the plan is complete, accurate and in compliance with the requirements of these standards. The requirement that such plans and specifications be certified by a registered landscape architect or arborist may be waived for the minor alterations and improvements which, in the sole discretion of the department of planning

and development, does not require the services of such a professional.

(5) *Procedures.* The plan shall contain landscaping information in accordance with this provision and the village's minimum requirements for site plan information. All landscape plans must include the following information:

- a. The location and dimensions of all existing and proposed structures, project boundary lines, parking lots, drives, roadways and right-of-way, delineation of traffic vision corners, sidewalks, bicycle paths, signs, refuse disposal areas, bicycle parking areas, architectural features, utility equipment, utility easements and lines (above and below ground), conservation easements, and lighting. All existing or proposed sewer manholes and water main valves and hydrants must be shown, and the landscape design shall maintain clear access, avoiding any conflict with said manholes, water main valves and hydrants.
- b. The plan shall show the location of all proposed vegetation including a plant schedule indicating a plant's scientific and common names, square feet, coverage area, quantity, size at time of planting (per exhibit to left), root ball condition, and spacing of shrubs and ground cover.
- c. All existing vegetation which is equal to or exceeds the following sizes must be inventoried and shown on the plan; deciduous tree three-inch caliper or greater, evergreen trees seven inches high or greater, shrubs 36 inches high or greater.
- d. The location of all proposed berming indicating contours at one foot intervals and percent slope.
- e. Details, sections, and/or elevations of all proposed architectural features, walls, lighting standards, water features, etc.
- f. All plans must also have a title block including the following information:
  - i. North arrow.
  - ii. Scale.
  - iii. Name of developer.
  - iv. Address of project.
  - v. Name of project.

- vi. Date.
- vii. Name of landscape architect or arborist with registration stamp.
- viii. Space for revision dates.
- ix. Sheet number.
- x. Statement accompanying registered stamp stating that the plan is in compliance with the site development standards.

(6) *Landscape requirements.* The intent of the landscape requirements is to provide minimal tree plantings with a diversity of shrub-type plant materials within the street yard area of a nonresidential development.

- a. At least one deciduous tree no less than two and one-half inches caliper shall be incorporated into the design and included as part of the installation per the following ratios:
  - i. In street yards less than 10,000 square feet, one tree per 2,000 square feet or a fraction thereof.
  - ii. In street yards between 10,000 and 50,000 square feet, one tree per 2,500 square feet or fraction thereof, of street yard area over 10,000 square feet is added to the required five trees for the first 10,000 square feet.
  - iii. In street yards over 50,000 square feet, one tree per 5,000 square feet or fraction thereof, of the street yard area over 50,000 square feet is added to the requirement of 21 trees. An existing or planted tree that is greater than six-inch caliper in size shall be considered as two trees for the purposes of satisfying this provision.
- b. At least one evergreen tree no less than six inches high shall be incorporated into the design and included as part of the installation as per the following ratios:
  - i. In street yards less than 10,000 square feet, one tree per 2,500 square feet or fraction thereof.
  - ii. In street yards between 10,000 and 50,000 square feet, one tree per 2,500 square feet or fraction thereof, of street yard area over 10,000 square feet is added to the required five trees for the first 10,000 square feet.

- iii. In street yards over 50,000 square feet, one tree per 5,000 square feet or fraction thereof, of the street yard area over 50,000 square feet is added to the requirement of 14 trees. An existing or planted tree that is greater than six-inch caliper in size shall be considered as two trees for the purposes of satisfying this provision.
- c. At least one ornamental deciduous tree no less than two and one-half inch caliper shall be incorporated into the design for every 5,000 square feet of street yard area.
- d. On all developments, at least 40 percent of the total street yard area shall be landscaped utilizing plant materials, other than maintained turf, that contribute to at-grade coverage.

For purposes of determining the number of plants necessary to meet the minimum 40 percent at-grade coverage requirement, we have categorized plant types by their general size and potential mature at-grade coverage area.

Plant Type	Area of Coverage Provided
Shade Tree	0*
Ornamental Tree	0*
Evergreen Tree (> 8-foot diameter)	75 square feet
Large Shrub (6--8-foot diameter)	38 square feet
Med. Shrub (4--6-foot diameter)	20 square feet
Small Shrub (2--4-foot diameter)	12 square feet
Perennial (4.5 inch Pot)	6 square feet
*Note: Shade and Ornamental trees are not considered a plant type contributing to at-grade coverage.	

- e. To assure a diversity of color, texture and year round interest, the total number of shrub type plant materials must be compromised of a minimum 30 percent evergreens, yet not in excess of 65 percent.
- f. Screening (other than for parking lot screening) shall be provided within the street yard area. Such screening shall meet the following minimum requirements:
  - i. Shall a minimum four feet (at mature height) high measured from the right-of-way pavement elevation, utilizing a combination of berms, architectural features, shrubs, plantings, etc.
  - ii. Berms with side slopes greater than 3:1 must be landscaped with a combination of trees, shrubs, groundcovers and/or perennials. Mowed turf will not be acceptable on slopes greater than 4:1.

- g. All required plant material shall be installed according to the installation guidelines included in these standards, and/or planting details and specifications as shown on the landscape plan, showing clearly how growing conditions adequate to sustain vigorous and healthy growth will be achieved. These may include:
  - i. Protect and support tree trunks (guying, staking, tree wrap, etc.).
  - ii. Provide adequate conditions for root development and establishment (type of soil mix, soil amendments, planting hole depth, pruning, fertilizing, etc.).
  - iii. Provide for retention of moisture (mulching, ground cover, etc.).
  - iv. Protect plants from construction equipment damage.
  - v. Provide planting holes twice the diameter of the root ball and backfill with clean topsoil rich in organic material.

- (7) *Parking lot screening requirements.* It is the intent of these standards to require screening along parking lots adjacent to the required street yard to enhance the visual quality of commercial districts by developing visual relief from the expanse of asphalt, concrete and vehicles. It is encouraged that the landscape development of the screening buffer take on a more natural appearance, where organic lines are used over straight formal lines.

In addition to the required landscaping within the street yard, a landscape screening buffer extending along the length of the parking lot and/or vehicular use area that lies adjacent to public or private roadways, must be provided in accordance with the following provisions. Screening materials should be setback minimums of five feet from the edge of any vehicular use area to allow for snow removal and snow storage.

- a. For new developments, and/or reconstruction of existing parking lots where existing conditions allow, a 50-foot street yard shall be provided.
- b. Within the street yard, a minimum eight-foot wide (deep) landscape screen shall be provided along the entire length (100 percent) of the parking lot or vehicular use area which abuts the public or private roadway and extends. Such landscaping shall consist of evergreen and deciduous type shrubs spaced at a maximum of four feet on center. Evergreen plant material shall comprise a minimum 30 percent of the total plant species selected.

- c. The landscape screen shall be no less than four feet in height at installation measured from parking lot elevation. Up to two feet of the minimum four feet can be achieved through the crowning of the planting bed. See plant list for minimum installation sizes. The planting of required trees, as part of the landscape-screening buffer, is encouraged to add vertical interest.
  - i. Street yard depths 11 feet wide but less than 13 feet wide shall provide a minimum three-foot wide turf area located adjacent to the parking lot side of the street yard and an eight-foot wide landscape screen of deciduous and evergreen shrub materials.
  - ii. Street yard depths eight feet wide but less than 11 feet wide shall provide a minimum three-foot side turf area located adjacent to the parking lot side of the street yard and a five-foot wide landscape screen of deciduous and evergreen shrub materials.
  - iii. Street yard depths five feet wide but less than eight feet wide shall provide a minimum five-foot wide landscape screen of deciduous and evergreen shrub materials.

- (8) *Maintenance requirements.* Environmental quality and its protection are a high priority. Modification of horticultural practices to respond to change environmental conditions can minimize pest problems. The landscape investment needs to be protected from pest damage. This fact needs to be balanced with the goal of protecting the neighboring waters, soils, flora and fauna from damaging chemical build-up. Environmental conditions such as temperature, humidity, rainfall and snow cover influences pest populations and can help to predict periods when pests are likely to reach unacceptable levels. These factors can be weighed with field monitoring to determine when pest controls are necessary and which control method will be most effective.

Mechanical and biological controls are preferred over pesticide applications. When used, non-toxic chemicals and biodegradable chemicals are preferred. Applications of pesticides in the environment should be pest specific, time specific, quantity controlled and monitored for effectiveness. Pesticide use should not become routine or institutionalized on a blind schedule. As chemical technology changes, it is important to stay current on all integrated pest management techniques.

The goal of the landscape maintenance requirements is to provide a well-maintained landscape in the most visible public areas of the

development emphasizing minimum environmental impact with reduced chemical use.

In manicured landscape areas weekly lawn mowing will be necessary, including spring clean-up, control of broadleaf weeds, attention to fertilization, pruning of woody plant material, edging of plant beds and leaf removal in fall.

Maintenance practices are identified herein as required practices and as advisory practices.

(9) *Required maintenance practices.*

- a. The developer shall be responsible for the upkeep and continued maintenance of the required landscape materials as per the maintenance standards set forth in this provision. They include:
  - i. The regular maintenance of all required landscape areas and plant materials in vigorous and healthy condition free from diseases, pest, weeds, and litter. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other needed maintenance in accordance with generally accepted horticultural practices.
  - ii. The maintenance, repair or replacement of landscape structures (walls, architectural features, etc.) to a structurally sound condition.
- b. Failure to regularly maintain as described in these maintenance requirements shall constitute a violation of this provision and may be enforced in accordance with Village of Mount Pleasant Building Inspection policy. Notice of noncompliance may be issued to the owner requiring the immediate attention to conforming to these maintenance requirements. The village may correct, repair or replace landscape materials as required by this provision. Costs for such repair, or replacement within the first three years, will be covered by the developer's maintenance security deposit.
- c. Required plant materials, if dead, diseased, or severely damaged shall be removed by the owner as soon as possible, but no later than 30 days after notification. All such plants shall be replaced within 30 days of notification or by the next planting season, whichever comes first.

- d. Replacement plants must be of the same size and species as shown on the approved landscape plan or must be equivalent in terms of quality and size. Such replacement will not be considered an amendment to the approved plan.

- (10) *Plant material selection.* Plants chosen for the Village of Mount Pleasant area must have a proven climatic adaptability to southeastern Wisconsin. While the adaptability of plant hardiness for our area is largely determined by temperature extremes, wind, soil, and snowfall, yearly precipitation should also be considered. Few plants are without disease and insect problems, but in many plants these problems are minor. Try to select plant material that is disease resistant and will not present future problems or require extensive care and treatment.

Smoke, fumes, ventilation systems and salt can restrict or even destroy plant material. Likewise, people, by trespass or deliberate vandalism, may also do considerable damage. Proper design and plant selection will help minimize some of these problems. Careful evaluation of site conditions and uses, along with matched plant selection, will provide a lasting landscape.

All plant materials selected shall be a good quality of species capable of withstanding the extremes of the hardiness zone in southeastern Wisconsin, be suitable to the soil conditions present and be compatible with site specific microclimates. Salt tolerant species are identified with an asterisk (\*) and should be considered for areas subject to salt spray and snow storage.

The selected woody plant materials, for use in the landscape development, must be chosen from the following list. The plants are categorized by their potential growth size and square foot coverage area. This is useful in selecting plants for compliance in meeting the minimal coverage area required in the 40 percent street yard landscape area. All are hardy in the Village of Mount Pleasant area. This list will be reviewed every five years as new selections are constantly being introduced which may be superior in hardiness, resistance to disease, better flowers or fruit, etc.

#### VILLAGE OF MOUNT PLEASANT PLANT LIST

JUNE 2006

Plant Type	Area of Coverage Provided
Shade Tree	0 <sup>1</sup>
Ornamental Tree	0 <sup>1</sup>
Evergreen Tree (> 8-foot diameter)	75 square feet
Large Shrub (6--8-foot diameter)	38 square feet

Med. Shrub (6--8-foot diameter)	20 square feet
Small Shrub (2--4-foot diameter)	12 square feet
Perennials	6 square feet
<sup>1</sup> Note: Shade and ornamental trees are not considered a plant type contributing to "at-grade" coverage.	

## TREES

Botanical Name	Common Name
Shade Trees: 2.5" cal. (dbh) Minimum Planting Size	
Acer platanoides*	Norway Maple
Acer rubrum (& cultivars)	Red Maple (prefers neutral to acid soils)
Acer saccharum (& cultivars)	Sugar Maple (requires well drained soils)
Aesculus hippocastanum	Horsechestnut
Aesculus hippocastanum "Baumannii"	Baumann Horsechestnut
Carya ovata	Shagbark Hickory
Fagus grandfolia	American Beech
Fraxinus americana "Autumn Applause"	Autumn Applause White Ash
Fraxinus americana "Rosehill"	Rosehill White Ash
Fraxinus pennsylvanica*	Green Ash
Fraxinus pennsylvanica "Marshall Seedless"*	Marshall Seedless Ash
Fraxinus pennsylvanica "Summit"*	Summit Ash
Ginkgo biloba*	Ginkgo (male only)
Juglans nigra	Black Walnut
Quercus alba	White Oak
Quercus macrocarpa	Bur Oak
Quercus robur	English Oak
Quercus rubra	Red Oak
Tilia americana	American Basswood
Tilia cordata (& cultivars)	Littleleaf Linden
Tilia tomentosa	Sterling Silver Linden
Tilia x euchlora "Redmond"	Redmond Linden (intolerant of salt)
Ornamental Trees: 2.5"--3" cal. (dbh) Minimum Planting Size*	
Acer campestre	Hedge Maple
Acer ginnala	Amur Maple
Aesculus x carnea "Briotii"	Ruby Horsechestnut
Alnus glutinosa	Black Alder
Amelanchier arborea	Downy Serviceberry
Amelanchier laevis	Alleghany Serviceberry
Betula nigra	River Birch
Betula nigra "Heritage"	Heritage Birch
Betula platyphylla var jap. "Whitespire"	Japanese Whitespire Birch
Carpinus caroliniana	Musclewood
Cercidiphyllum japonicum	Katsuratree
Cercis Canadensis (Columbus Strain)	Columbus Strain Redbud
Chionanthus virginicus	Fringetree

<i>Cornus alternifolia</i>	Pagoda Dogwood
<i>Corylus columna</i>	Turkish Filbert
<i>Crataegus crusgalli</i>	Cockspur Hawthorn
<i>Crataegus phaenopyrum</i>	Washington Hawthorn
<i>Crataegus viridis</i> "Winter King"	Winter King Hawthorn
<i>Magnolia x loebneri</i> "Dr. Merrill"	Dr. Merrill Magnolia
<i>Magnolia x soulangiana</i>	Saucer Magnolia
<i>Malus sp.**</i>	Flowering Crabs
<i>Ostrya virginiana</i>	Ironwood
<i>Pyrus calleryana</i> "Autumn Blaze"*	Autumn Blaze Callery Pear
<i>Pyrus calleryana</i> "Chanticleer"*	Chanticleer Callery Pear
<i>Pyrus calleryana</i> "Redspire"*	Redspire Callery Pear
<i>Salix reticulata</i> "Ivory Silk"	Ivory Silk Japanese Tree Lilac
<i>Syring reticulata</i> "Summer Snow"	Summer Snow Japanese Tree Lilac
Evergreen Trees: 7' High Minimum Planting Size (75 Sq. Ft. Coverage)	
<i>Abies concolor</i>	Concolor Fir
<i>Juniperus virginiana</i>	Eastern Red Cedar
<i>Larix decidua</i>	European Larch
<i>Larix laricina</i>	Tamarack
<i>Picea abies</i>	Norway Spruce
<i>Picea glauca</i> var. <i>Densata</i>	Black Hills Spruce
<i>Picea omorika</i>	Serbian Spruce
<i>Picea pungens</i>	Colorado Green Spruce
<i>Picea pungens</i> "Glaucous"*	Colorado Blue Spruce
<i>Picea pungens</i> "Hoopsii"*	Hoopsii Spruce
<i>Pinus nigra</i> *	Austrian Pine
<i>Pinus strobus</i>	Eastern White Pine
<i>Pinus sylvestris</i>	Scots Pine
<i>Pseudotsuga menziesii</i>	Douglas Fir
Large Shrubs - 38 Sq. Ft. Coverage Area	
Deciduous Shrubs: 48" High Minimum Planting Size	
<i>Caragana arborescens</i>	Siberian Peashrub
<i>Cornus mas</i>	Cornelian Cherry
<i>Corylus americana</i>	Hazelnut
<i>Cotinus coggygria</i>	Smokebush
<i>Euonymus alatus</i> *	Burning Bush
<i>Forsythia x intermedia</i> "Meadowlark"	Meadowlark Forsythia
<i>Forsythia x intermedia</i> "Northern Sun"	Northern Sun Forsythia
<i>Hamamelis virginiana</i>	Common Witchhazel
<i>Ligustrum amurense</i>	Amur Privet
<i>Ligustrum japonicum</i>	Japanese Privet
<i>Magnolia stellata</i>	Star Magnolia
<i>Myrica pennsylvanica</i> *	Bayberry (Prefers acid soil)
<i>Prunus cerasifera</i>	Purpleleaf Plum
<i>Rhus typhina</i>	Staghorn Sumac
<i>Sambucus canadensis</i> (& cultivars)	Elderberry
<i>Syringa vulgaris</i>	Common Lilac
<i>Viburnum dentatum</i>	Arrowwood Viburnum
<i>Viburnum lantana</i>	Wayfaringtree Viburnum

Viburnum lantana "Mohican"	Mohican Viburnum
Viburnum lentago	Nannyberry Viburnum
Viburnum opulus	European Highbush Cranberry Vib.
Viburnum prunifolia	Blackhawk Viburnum
Viburnum trilobum	American Highbush Cranberry Vib.
Large Evergreen Shrubs: 30" High Minimum Planting Size	
Juniperus chinensis "Hetzii"	Hetz Juniper
Juniperus chinensis "Pfitzeriana"*	Pfitzer Juniper
Pinus mugo	Mugo Pine
Medium Shrubs - 20 Sq. Ft. Coverage Area	
Deciduous Shrubs: 24" High Minimum Planting Size	
Aronia arbutifolia "Brilliantissima"	Brilliant Red Chokeberry
Aronia melancarpa	Black Chokeberry
Aronia melancarpa var. Elata	Glossy Black Chokeberry
Cornus sps.	Dogwood
Cotoneaster sps.	Cotoneaster
Euonymus alatus "Compacta"	Dwarf Burning Bush
Forsythia x intermedia "Northern Gold"	Northern Gold Forsythia
Hamamelis vernalis	Vernal Witch Hazel
Hydrangea sps.	Hydrangea
Ligustrum amurense	Amur Privet
Ligustrum japonicum	Japanese Privet
Philadelphus virginialis	Mockorange
Prunus tomentosa	Flowering Almond
Rhus aromatica	Fragrant Sumac
Ribes alpinum	Alpine Currant
Rosa rugosa (cultivars)*	Rugosa Rose
Rose sps.	Hardy Shrub Rose
Spiraea nipponica "Snowmound"	Snowmound Spirea
Spiraea prunifolia	Bridal Wreath Spirea
Syringa patula "Miss Kim"	Dwarf Lilac
Viburnum carlesii	Korean Spice Viburnum
Viburnum opulus "Xanthocarpum"	Yellow Fruited Viburnum
Viburnum trilobum "Wentworth"	Wentworth Viburnum
Medium Evergreen Shrubs: 24" High Minimum Planting Size	
Juniperus chinensis "Ames"	Ames Juniper
Juniperus chinensis "Armstrong"	Armstrong Juniper
Juniperus chinensis "Fairview"	Fairview Juniper
Juniperus chinensis "Iowa"	Iowa Juniper
Juniperus chinensis "Kettleleeri"	Kettleleeri Juniper
Juniperus chinensis "Mountbatten"	Mountbatten Juniper

Juniperus chinensis "Mint Julep"	Mint Julep Juniper
Juniperus chinensis "Sea Green"	Sea Green Juniper
Juniperus communis depressa	Old Field Juniper
Juniperus sabina	Savin Juniper
Juniperus squamata "Meyeri"	Meyer Juniper
Pinus mugo var. mugo	Dwarf Mugo Pine
Taxus cuspidata	Spreading Japanese Yews
Taxus x media (cultivars)	Japanese Yews
Thuja occidentalis	Arborvitae
Small Shrubs - 12 Sq. Ft. Coverage Area	
Deciduous Shrubs: 24" High Minimum Planting Size	
Amelanchier stolonifera	Running Serviceberry
Cotoneaster apiculatus	Cranberry Cotoneaster
Diervilla lonicera	Dwarf Bush Honeysuckle
Potentilla sps.	Potentilla
Rhus aromatica "Grow Low"	Grow Low Fragrant Sumac
Salix purpurea nana	Dwarf Arctic Willow
Spirea japonica "Little Princess"	Little Princess Spirea
Spirea x bumalda "Anthony Waterer"	A. W. Spirea
Spirea x bumalda "Froebeli"	Froebel Spirea
Viburnum opulus "Compactum"	Compact European Viburnum
Evergreen Shrubs (under 4' tall at Mature Size) 18" High Minimum Planting Size	
Juniperus chinensis "Pfitzeriana Compacta"*	Compact Pfitzer Juniper
Juniperus chinensis "Kallay's Compact"	Kallay Juniper
Juniperus chinensis var. sargentii "Glaucous"*	Sargent Juniper
Juniperus procumbens "Nana"	Dwarf Japgarden Juniper
Juniperus squamata "Blue Star"	Blue Star Juniper
Juniperus Sabina "Broadmoor"	Broadmoor Juniper
Evergreen Ground Covers (under 2' tall at Mature Size)	
Juniperus c. var. sargentii "Glaucous"	Blue Sargent Juniper
Juniperus horizontalis "Bar Harbor"	Bar Harbor Juniper
Juniperus horizontalis "Blue Chip"	Blue Chip Juniper
Juniperus horizontalis "Hughes"	Hughes Juniper
Juniperus horizontalis "Jade River"	Jade River Juniper
Juniperus horizontalis "Plumosa"	Andorra Juniper
Juniperus horizontalis "Wiltonii"	Blue Rug Juniper

Juniperus horizontalis "Wisconsin"	Wisconsin Juniper
Juniperus Sabina "Calgary Carpet"	Calgary Carpet Juniper
Juniperus squamata "Blue Carpet"	Blue Carpet Juniper
*Salt tolerant species	
** Crabapples: Choose only fireblight, scab and cedar-apple rust resistant species with fruit no larger than 1" diameter.	

### Prohibited Plant Materials

There are some woody plant species that are regarded as invasive or undesirable by the Wisconsin Department of Resources, and therefore should not be planted.

Botanical Name	Common Name
Acer negundo	Box Elder
Acer saccharinum	Silver Maple
Berberis thunbergii	Japanese Barberry
Elaeagnus angustifolia	Russian Olive
Ginkgo biloba (female)	Ginkgo (female)
Lonicera tatarica	Tartarian Honeysuckle
Populus deltoides	Cottonwood
Rhamnus cathartica	Common Buckthorn
Rhus glabra	Smooth Sumac
Robinia pseudoacacia	Black Locust
Rosa multiflora	Multiflora Rose
Ulmus pumila	Siberian Elm

Successfully maintained landscapes are a direct result of the quality of the landscape installation. Improper planting techniques will adversely affect the growth of new plant materials. Quality products and installation also reduces the amount of maintenance required. A healthy vigorous plant requires less maintenance than a sick or problematic plant. Therefore, it is essential that all new planting installations be done in a quality manner, using quality materials.

The following installation guidelines are intended to provide new planting with the proper environment with which to grow healthy and vigorous.

#### (11) *Materials.*

- a. Plant names shall conform to those given in "Standardized Plant Names", 1942 edition, American Joint Committee on Horticultural Nomenclature.
- b. Plant materials, methods, etc. shall conform to the requirements described in the latest edition of "American Standard for Nursery Stock", which is published by the American Association of Nurserymen, (ANSI Z60.1 - Latest Edition).

- c. Plants shall be equal or exceed the measurements specified in the plant schedule. Measure before pruning with branches in normal position. Height and spread refers to main body of plant and not from tip to tip of branches and roots.
- d. All plants shall be of the highest quality. Plants shall have typical growth of habit as species. Plants shall be sound, healthy, vigorous and free from insect pests, plant diseases and injury. One sided plants and plants taken from tightly planted nursery rows will be rejected.
- e. All plants shall be true to name and legibly tagged as name, size, and source.
- f. Plants designated B/B shall be balled and burlapped. They shall be dug with firm, natural balls, of earth of sufficient diameter and depth to encompass the fibrous and feeding root system necessary for full recovery of the plant. Balls shall be firmly wrapped with burlap or similar materials and bound with twine, cord or wire baskets.
- g. Topsoil shall be fertile, friable, natural loam, screened surface soil, reasonably free of subsoil, clay lumps, brush, weed, and other litter and free of roots, stumps, stones larger than two inch in any dimension and extraneous or toxic matter harmful to plant growth.
- h. Sod shall be free of objectionable grassy and broadleaf weeds. Sod shall be considered free of such weeds if less than five such plants are found per 100 square feet of area. Sod will not be acceptable if it contains any of the following weeds: common Bermuda grass, quackgrass, Johnson grass, poison ivy, nutsedge, nimblewill, Canada thistle, bindweed, bentgrass, wild garlic, garlic mustard, ground ivy, perennial sorrel and brome grass.
- i. Bark mulch: Furnish shredded bark from disease-free hardwood trees. Provide generally flat bark, maximum of one inch wide and three inches long, graded down to sawdust, and relatively free of deleterious matter.

(12) *Execution.* The most important step in assuring the lively success of the plant material is to provide suitable growing conditions. Therefore the most important component is the execution of the planting pit and backfill. Generally, the planting pits should be executed as follows:

- a. All pits shall generally be circular in outline, with vertical, sloping sides. Break up compacted or glazed soil on side of planting pits and flare the planting hole edges.
- b. Pits shall be deep enough to allow the top of the root ball to be flush or slightly higher than the surrounding grade. Plants shall rest on undisturbed soil or well-compacted backfill.
- c. Holes for trees and shrubs shall be at least three times the spread of the root ball.
- d. Backfill planting pits with existing site soil. For heavy clay soils, mix the backfill at a rate of eight parts existing site soil to one part organic topsoil.
- e. Fill excavations for trees and shrubs with water and allow to percolate out before planting.
- f. Place plants vertical in the center of the hole and at the same depth as they were previously grown. The root collar shall be even or slightly higher than the soil line. Place no soil on top of the root ball.
- g. Cut ropes or strings from the top of the root ball after the plant has been set. Leave burlap wrapping intact around the base and sides of the root ball. Cut away or turn under and bury portions of burlap exposed at the top of the root ball. If the root ball is wrapped in a non-biodegradable material, remove the wrapping completely from around the root ball.
- h. Provide a mulch saucer around each plant.
- i. When approximately two-thirds of the planting pits have been backfilled, fill the hole with adequate water and allow soil to settle. Complete filling and saturate the plant pits with water within 24 hours of planting.
- j. Fertilizer shall be applied at the time of planting and mixed with the backfill. Apply ten pounds of phosphate-containing fertilizer such as 0-20-0, 0-46-0, 4-12-4, or 5-10-5 per cubic yard of backfill. A rate of ten pounds of phosphate per cubic yard is approximately equal to one-half pound fertilizer per bushel of backfill.
- k. For areas designated as shrub beds or hedge trenches, they shall be cultivated to at least 18 inches in depth.

- l. For areas designated for perennials, ground covers and vines, the area shall be cultivated a minimum of 12 inches.
- m. All trenches and shrub beds shall be edged and cultivated to the lines shown on the approved plans.
- n. Stakes and support ties are needed only if the plant needs support to remain upright, or if protection is needed from people. Fastening material shall be one-fourth-inch poly-rope or similar material. Wire shall not be used. Hose to encase fastening material shall be two-ply one-half-inch diameter reinforced rubber garden hose.
- o. Protect all public rights-of-way including street and/or sidewalks from damage.

(m) *Signage.* Signage should be presented so as to express information as clearly and concisely as possible. In addition to the need for concise communications the signage should be attractive, well coordinated, and harmonious with the surrounding environment. Signage requirements for type of sign, size height, lighting and location permitted in each district is contained in chapter 90, article V of the Mount Pleasant Zoning Code. The following additional standards address the relationship uses and the design of signage as part of a unified site development.

- (1) New monument (on-premise multi-tenant) signs shall be no higher than thirty-five feet in total height. See ordinance section(s) 90-651(m) (4), (5) and (7) for single tenant ground signage regulations.
- (2) No new or modified freestanding signage taller than 35 feet shall be allowed further than 500 feet of I-94. See ordinance section 90-651(m) (1) for monument (multi-tenant) signage and ordinance section(s) 90-651 (m) (4), (5) and (7) for single tenant ground signage regulations.
- (3) Electronic reader boards or message centers that do not flash, scroll or change in less than five minute intervals are permitted within ground signs (nine feet in total height or less). Electronic reader boards or message centers are prohibited within free standing signs.
- (4) Landscaping, including low growing shrubs, flowers, and ground cover is to be at the base of ground signs. A minimum area of 250 square feet for such landscaping is required.
- (5) The location and design of ground signs within a setback area should be coordinated with the landscape treatment.

- (6) The color and materials used in structural elements of signage should be consistent with and related to the building facade materials on the site. The colors used in message area for all signage on a site should be similar or complementary to create a unified and coordinated appearance.
- (7) Ground signs should not be located in the required offsets adjacent to a residential district.
- (8) All flat-wall signage on a multi-tenant commercial/office structure shall be a uniform color scheme. (Chosen by landowner.)
- (9) All freestanding signage shall be replaced with ground or on-premise multi-tenant monument signage when more than 50 percent of the assessed value of the building and/or property is modified.

(n) *Lighting.* Lighting is a functional requirement, which impacts the visual environment with the primary purpose of providing a safe and secure environment. Establishment of a lighting system that provides safe and secure travel along vehicular and pedestrian circulation routes is of primary importance.

- (1) Utilize lighting to channel, direct and orient site users at night.
- (2) Provide a well designed lighting system that exposes traffic conditions and provides visual orientation that would allow you to notice details such as road alignment, traffic control devices, intersections, converging and diverging traffic lanes, and pedestrian crossings.
- (3) Pedestrian lighting should illuminate obstructions to travel as well as provide a secure feeling by minimizing dark shadows along walkways.
- (4) Proper lighting of buildings, monuments, fountains and other structures serve as orientation landmarks for nighttime drivers.
- (5) Integrate lighting system with site systems and furnishings and supply power by underground lines wherever feasible to reduce streetscape clutter.
- (6) Relate the lines and planes of the light fixture to surrounding buildings. The pole (vertical) size and aim (horizontal) size should relate to the surrounding facilities. Light fixtures, where possible, should blend into the background.
- (7) Levels of illumination should vary with the activities preformed in the area.
- (8) All lighting on a parcel shall be located or shielded to avoid casting of any direct rays of light on adjoining parcels or streets. In addition, all

freestanding light shall be no taller than 20 feet in total height from base to top of luminary. In addition, all luminaries shall contain cut-off provisions.

- (9) Illumination of off-street parking areas shall be arranged so as not to reflect direct rays of light onto adjacent streets or properties. Lighting shall be considered as restricted to the parking lot if such lighting is so oriented aimed as to direct no more than one-half of each fixture's maximum luminous intensity, measured in footcandles, outside the exterior limits of the parking lot, unless the illumination level, in footcandles at the exterior limits of the property measured at any plane, is less than 0.5-footcandles. The total illumination level produced at the exterior limits of the parking lot from all lighting shall not exceed five footcandles measured in any plane except entrances and exits.
- (10) In addition the following shall also be considered:
  - a. No individual light shall exceed 1,000 watts.
  - b. The height of all freestanding light fixtures shall not exceed the roofline of the building or 20 feet, whichever is less.
  - c. All pole heights shall be brought into conformity when 50 percent or more of the poles are changed or replaced on a premise.
  - d. High intensity discharge fixtures mounted on building walls and under canopies shall be shielded so that the refractor shall be invisible from a horizontal plane to neighboring residences and streets.
  - e. All commercial and industrial uses and institutional conditional uses (i.e. churches, schools, etc.) shall supply a photometric plot plan for electric review of exterior lighting.

(o) *Utilities.* Utilities can be visually dominant element in the landscape. Visible utility infrastructure should be treated as to lessen their negative visual impacts. Utilities are addressed in the following:

- (1) *Planning.* The design of utility systems often ignores the aesthetic in favor of the purely functional. Advance planning can provide for treatments which can mitigate the negative visual impacts of utility systems.
  - a. Maintain functional relationships, which promote efficiency in the use of energy and cost providing required services. Avoid scattered development of facilities, which have similar utility requirements.

- b. Provide for long-term expansion and potential utility requirements. Anticipate future expansion needs and incorporate them into site planning development. Coordinate planning and construction of new facilities with demolition of existing facilities.
- c. Locate utilities underground wherever possible and remove above-ground utility lines. On platted lands, utilities must be underground.
- d. Design and locate utility systems as an integral component of the site planning and design process. Take into account ease of maintenance and repair.
- e. Design above-ground systems to be inconspicuous as possible.
- f. Minimize the adverse visual and environmental impacts of utility systems.

(2) *Layout/location.* The elements that make up utility systems such as telephone poles and transformer substations have a strong impact on the visual quality of an area. Utility lines and structures should be located with consideration given to their visual impact.

- a. Wherever possible, direct bury overhead utilities to eliminate visual clutter. Utilize conduit and manholes to ease repair.
- b. When direct bury is not possible, avoid placing utility lines along primary circulation routes or other high visibility areas. Place overhead utility lines at the rear of buildings and within service areas. Utilize site features such as vegetation, topography, existing structures, walls and fences as buffers to reduce the negative visual and environmental impacts.
- c. Avoid aligning overhead utility lines with direct, primary views. In natural areas, integrate the alignment of the overhead utility easement with existing topography and vegetation. Avoid cutting long, straight swales through vegetated areas. Utility lines should not be placed along ridgelines where they are highly visible and difficult to hide.
- d. Where utility easements cross roadways in wooded areas, the easement should job [sic] to block the view of the clearout corridor.
- e. Easements should not be totally cleared edge to edge, but along an irregular line to preserve trees and reduce maintenance. Place

utility lines away from major roadways and against a backdrop of trees to reduce the silhouette of poles against the skyline.

- f. When overhead utility lines are necessary, place these at the periphery of building groups or defined land use areas. Avoid bisecting these areas with utility lines.
- g. Reduce the negative visual impact of existing overhead utility lines by planting trees and shrubs as visual buffers and visual relief. Utility system components should be coordinated with site furnishings wherever possible.
- h. Minimize the visual impact of utility structures such as telephone poles, power stations, pump houses, transformer substations and storage tanks. Carefully site such structures within areas of low visibility, utilize existing vegetation, topography, and structures as buffers. Enhance these existing buffers with additional vegetation, walls and screens as necessary. If possible, locate utility structures within compatible land use areas such as an industrial area.

(p) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(q) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. No. 12-06, 11-27-2006; Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-652--90-670. Reserved.**

## Subdivision XX.

### M-1 Industrial (Manufacturing and Warehousing)\*

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\* **Cross References:** Licenses and permits, ch. 46.

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#### Sec. 90-671. Established.

(a) *Statement of intent.* The M-1 industrial (manufacturing and warehousing) district is intended to provide for all industrial uses which would violate the performance standards contained in article VI of this chapter.

(b) *Permitted uses by right.* Permitted uses by right in the M-1 district shall include the following, subject to approval by the plan commission of building, site and operational plans:

- (1) Manufacturing, assembly, fabrication and processing operations, including related materials, storage and warehousing.
- (2) Transportation terminals, including trucking and railroading.
- (3) General warehousing, including lumber and building supply yards.
- (4) Commercial uses that serve industrial uses, such as restaurants, professional offices and highway uses, including automobile service stations and car washes, etc.
- (5) Public utility offices, installations, and transmission and distribution facilities.

(c) *Permitted accessory uses.* Permitted accessory uses in the M-1 district shall include the following, subject to approval by the plan commission of building, site and operational plans:

- (1) Office, storage, power supply and other such uses normally auxiliary to the permitted principal use.
- (2) Off-street parking, loading and service facilities.
- (3) Signs, subject to the following (see article V of this chapter):
  - a. No sign shall exceed 75 square feet and illuminated signs shall not exceed 50 square feet in area, except that the individual letter signs on building facades permitted under section 90-931(a) may be permitted, not to exceed ten percent of the building facade on which they are placed.

- b. Not more than one sign attached to the building facade for each street frontage or each 500 feet of street frontage, whichever is greater, shall be permitted for each industrial user.
- c. No freestanding sign shall exceed 20 feet in height when measured from the ground, and no attached sign shall be higher than the parapet or eave line or, in any case, exceed 35 feet in height.

(4) Residential quarters for guards or caretakers.

(5) Any other use or structure normally accessory to the permitted principal uses.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the M-1 district shall include the following:

- (1) Automobile body repair shops, including the storage of junked or wrecked automobiles and parts.
- (2) Animal hospitals and kennels.
- (3) Junkyards or salvage yards.

(e) *Special regulations.* Where a use in the M-1 district abuts a residential district of any type, setbacks and offsets, if greater in the abutting residential district, shall apply to the M-1 district, but, in any case, shall not be less than 50 feet, which 50 feet shall be devoted to landscaping, and along the side and rear abutting a residential district at least 15 feet of such landscaped area shall be devoted to a landscaped earth berm or landscaped planting bed which will provide a visual screen at least six feet in height upon maturity of the plantings.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and

(3) The estimated municipal water main extension costs are less than the proposed building construction.  
(Ord. of 8-8-1972, § 7.10(1); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-672--90-690. Reserved.**

## **Subdivision XXI.**

### **M-E Industrial (Existing Limited)\***

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\* **Cross References:** Licenses and permits, ch. 46.

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#### **Sec. 90-691. Established.**

(a) *Statement of intent.* The M-E industrial (existing limited) district is intended to be used only in the situations existing in the village on the effective date of the ordinance from which this chapter is derived where industrial uses, often in direct proximity to residential uses, have developed on lots too small to provide for the area requirements of the M-1 district, and where the range of uses to be permitted under the performance standards concept must be very carefully considered in view of the small lots and problems of intrusion into residential neighborhoods.

(b) *Permitted uses by right.* Permitted uses by right in the M-E district shall include industrial or commercial uses present in the district on the effective date of the ordinance from which this chapter is derived under their existing conditions of building, site and operations, with all expansion or changes of use processed as conditional grants.

(c) *Permitted accessory uses.* Permitted accessory uses in the M-E district shall include uses and structures existing on the effective date of the ordinance from which this chapter is derived which are accessory to present uses, with all expansions or changes to existing uses, or accessory uses for new permitted uses, processed as conditional grants.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the M-E district shall include all uses permitted in the M-1 district.

(e) *Special regulations.* Where a use in the M-E district abuts a residential district of any type, setbacks and offsets, if greater in the abutting residential district, shall apply to the M-E district, but, in any case, shall not be less than 50 feet, which 50 feet shall be devoted to landscaping, and along the side and rear abutting a residential district, at least 15 feet of the landscaped area shall be devoted to a landscaped earth berm or landscaped planting bed which will provide a visual screen at least six feet in height upon maturity of the plantings.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.10(2); Ord. No. 11-2008, 7-14-2008)

**Secs. 90-692--90-710. Reserved.**

#### **DIVISION 4.**

#### **OVERLAY DISTRICTS\***

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- **Cross References:** Licenses and permits, ch. 46
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#### **Subdivision I.**

##### **In General**

**Secs. 90-711--90-730. Reserved.**

#### **Subdivision II.**

##### **OAG Agriculture**

**Sec. 90-731. Established.**

(a) *Statement of intent.* The OAG agriculture overlay district is intended to permit the continuation of agricultural use in areas where basic zoning districts not providing for agriculture

have been applied, but where development is not imminent, and it is intended that continued agricultural use should not be restricted with legal nonconforming status.

(b) *Permitted uses by right.* Permitted uses by right in the OAG district shall include agriculture, as described for the AG agriculture district under section 90-311(b)(1).

(c) *Permitted accessory uses.* Permitted accessory uses in the OAG district shall include all accessory uses permitted in the AG agriculture district.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the OAG district shall include private boarding stables.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.14(1); Ord. No. 11-2008, 7-14-2008)

**Secs. 90-732--90-750. Reserved.**

### **Subdivision III.**

#### **OEL Extractive or Landfill Operations**

**Sec. 90-751. Established.**

(a) *Statement of intent.* The OEL extractive or landfill operations overlay district is intended as the regulatory method for establishing minimal controls for operations existing on the effective date of the ordinance from which this chapter is derived, and for permitting proposed operations, involving either removal of earth materials or filling, the regulations in this

section being particularly oriented to ensuring safe, nuisance-free operations leading systematically to a restored site having future usefulness, either for agriculture where so basically zoned, or for urban uses where so planned or zoned.

(b) *Permitted uses by right.* Permitted uses by right in the OEL district shall include, subject to approval by the plan commission of building, site and operation plans per section 90-1005, new uses involving:

- (1) Quarrying and removal of sand and gravel, including washing, crushing and similar processing, provided that all excavations shall be at least 200 feet from any right-of-way or property line, and all accessory uses, such as offices, parking areas and stockpiles, shall be at least 100 feet from the right-of-way and property lines.
- (2) Stripping of topsoil.
- (3) Mining of minerals.

(c) *Permitted accessory uses.* Permitted accessory uses in the OEL district shall include the following, subject to approval by the plan commission of building, site and operational plans:

- (1) Offices and outside storage of machinery and equipment.
- (2) Stockpiling of extracted materials or soil covering materials.
- (3) Power supplies and other such uses normally auxiliary to the permitted uses.
- (4) Signs as permitted in the underlying district.
- (5) Residential quarters for guards or caretakers.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the OEL district shall include:

- (1) Extractive operations existing on the effective date of the ordinance from which this chapter is derived as enumerated under subsection (b) of this section or existing filling operations, and may apply for legal conforming status under this chapter.
- (2) New filling operations, including refuse disposal under the landfill method.
- (3) The following, only in conjunction with a permitted use by right, which shall cease upon completion of the principal operations:

- a. Concrete mixing.
- b. Cement-concrete products manufacturing.
- (4) Asphalt paving production.

(e) *Special regulations.*

(1) *Existing operations.* Operations existing on the effective date of the ordinance from which this chapter is derived:

- a. Whether intending to conform to this chapter or to remain legally nonconforming, within 90 days after adoption of the ordinance from which this chapter is derived, shall be required to file data with the plan commission, showing:
  - 1. The present operations, including boundaries of the ownership and the areas and depths of the actual operation; a full and adequate description of all phases of the operation; and the specific mention of the type of machinery and equipment which are necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and disposition shall be made a part of such description.
  - 2. The restoration plan for the site, as described in subsection (e)(2)a.2. of this section.
- b. Shall be required to modify their operations, procedures and restoration plans in conformance with the minimum requirements imposed by the plan commission to assure safety, minimization of nuisances and restoration of the site, provided that such requirements shall not be economically and engineeringly unreasonable with respect to existing conditions.

(2) *Proposed operations.*

- a. Application for rezoning to the OEL district, or for a conditional use under this chapter, shall augment the data required under sections 90-73 and 90-1005, and, where appropriate, sections 90-104 and 90-105 by supplying at least the following:
  - 1. *Operational plan.*
    - i. A written description of the nature of the proposed operation, including the type and amount of

machinery and equipment to be used; the source, quantity and disposition of water to be used; and the nature of the proposed fill materials.

- ii. A map showing existing contours, at vertical intervals of at least five feet, plus existing trees.
- iii. The depth, by area, of proposed excavations or filling.
- iv. The proposed screening method, including earth berms, fences and plantings.
- v. The drainage plan during the operations.

2. *Restoration plan.*

- i. Proposed stages of excavation or filling by area.
- ii. Estimated timetable for commencement and restoration.
- iii. Proposed contours of the land after completion.
- iv. General use plan, such as proposed roads and lots for future urban development, if so zoned.
- v. Depth of restored topsoil and location of proposed plantings or reforestation.

3. *Performance guarantees.* Performance guarantees, in the form of a surety bond or other such method acceptable to the village board and approved by the village attorney and the plan commission, upon the advice of the village engineer.

- i. The applicant, in designing his place of operation, shall give consideration to operating in compact stages to minimize the required amount of performance guarantee in any one guarantee period.
- ii. Such guarantees shall be for periods not to exceed two years, with renewals allowed. With each renewal, the village engineer shall advise the village on the proper amount of guarantee to cover

restoration of operations existing and proposed for the next period.

- b. Approval of rezoning to the OEL district, or other actions under this section, shall be premised upon concern for the:
  - 1. Effect of the proposed operation on existing roads and traffic movement, in terms of adequacy, safety and efficiency.
  - 2. Effect of the proposed operation on drainage and water supply, and the possibility of soil erosion as a result of the proposed operation.
  - 3. Practical possibility of restoration of the site, in keeping with probable land use after restoration.

(f) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(g) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.14(2); Ord. No. 11-2008, 7-14-2008)

**Secs. 90-752--90-770. Reserved.**

#### **Subdivision IV.**

#### **OCR Commercial and Private Recreation**

**Sec. 90-771. Established.**

(a) *Statement of intent.* The OCR commercial and private recreation overlay district is intended to provide for both indoor and outdoor nongovernmental recreational uses, which

exceed the scope of the uses permitted under section 90-891 in association with residential developments, and which involve both commercial operations which do not fit within commercial districts as set forth in division 3, subdivisions XV--XIX of this article, such as outdoor drive-in theaters, and private operations, such as membership golf courses. The wide variation in the impact of uses permissible under the OCR district on the surrounding pattern of land use and transportation facilities requires limiting uses by right to uses existing on the effective date of the ordinance from which this chapter is derived, requiring extensions thereof, or new operations, to be processed as conditional grants.

(b) *Permitted uses by right.* Permitted uses by right in the OCR district shall include private and commercial recreational uses existing on the effective date of the ordinance from which this chapter is derived, including, but not limited to, golf courses, campgrounds, swimming and tennis clubs, athletic fields and stadiums, outdoor theaters, archery and firearm ranges, horse riding stables, etc., including the right to maintain and remodel the improvements involved therewith, except that remodeling shall not involve a basic expansion of the use.

(c) *Permitted accessory uses.* Permitted accessory uses in the OCR district shall include the following:

- (1) Off-street parking and loading areas.
- (2) Signs, as regulated in article V of this chapter.
- (3) Residential quarters for owners and caretakers.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the OCR district shall include the following:

- (1) All continuations of uses existing on the effective date of the ordinance from which this chapter is derived involving new construction or additions and remodeling that expand the use.
- (2) New uses, including, but not limited to, uses listed under subsection (b) of this section.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and

(2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and

(3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.14(3); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-772--90-790. Reserved.**

## **Subdivision V.**

### **OIP Institutional and Public Service**

**Sec. 90-791. Established.**

(a) *Statement of intent.* The OIP institutional and public service overlay district is intended to predetermine and provide in the basic districts in which such uses are appropriate, specifically defined areas where churches, schools, libraries and other uses of a public or institutional nature shall be permitted, subject to such regulatory standards as will ensure compatibility with the underlying basic district uses.

(b) *Permitted uses by right.* Permitted uses by right in the OIP district shall include the following, subject to approval by the plan commission of building, site and operational plans:

- (1) Public and private schools.
- (2) Churches and religious institutions, other than hospitals and extended care facilities.
- (3) Cemeteries and mausoleums.
- (4) Libraries, museums, art galleries and concert halls.
- (5) Public administrative offices.
- (6) Private lodges and clubs.

(c) *Permitted accessory uses.* Permitted accessory uses in the OIP district shall include the following, subject to approval by the plan commission of building, site and operational plans:

- (1) Off-street parking and loading areas.
- (2) Signs, as regulated by article V of this chapter.

- (3) Bars, restaurants and other service facilities accessory to a permitted use, and intended solely for the convenience of members and guests, and not operated as a business, nor open to the general public. Where such facilities are accessory, but are open to the public, they may be permitted as a conditional use as specified in subsection (d) of this section.
- (4) Any other structure or use normally incidental or accessory to the permitted overlay use.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the OIP district shall include the following:

- (1) Public service yards.
- (2) Radio and television transmission and relay towers.
- (3) Hospitals, nursing homes and rest homes for the aged.
- (4) Bars, restaurants or other service facilities basically accessory to a permitted principal use, but open to the public and operated as a business.
- (5) Penal, reform, disciplinary and mental institutions.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.14(4); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-792--90-810. Reserved.**

## **Subdivision VI.**

### **OHS Highway Service**

#### **Sec. 90-811. Established.**

(a) *Statement of intent.* The OHS highway service overlay district is intended to provide, along limited portions of major traffic routes, designated areas in which certain uses peculiarly suited to, and compatible with, the highway character and designed to service highway traffic may be permitted, subject to such regulatory standards as will ensure compatibility with the underlying basic district uses and not damage the traffic-carrying capacity of the highway.

(b) *Permitted uses by right.* Permitted uses by right in the OHS district shall include the following, subject to approval by the plan commission of building, site and operational plans:

- (1) Automobile service stations.
- (2) Motels and tourist homes.
- (3) Restaurants, supper clubs, drive-in restaurants and other establishments providing service to their customers while the customers are in their cars.
- (4) Laundry and dry cleaning pickup stations.
- (5) Any use permitted by right in the OOS district.

(c) *Permitted accessory uses.* Permitted accessory uses in the OHS district shall include the following:

- (1) Off-street parking and loading areas.
- (2) Signs as permitted in the underlying zone if it is commercial (see division 3, subdivisions XV--XIX of this article), or as permitted in the B-2 district if it is any other basic zoning.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the OHS district shall include the following:

- (1) Taverns and barns.
- (2) Trucking service stations.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water]*. A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.14(5); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-812--90-830. Reserved.**

## **Subdivision VII.**

### **OOS Office and Special Service**

**Sec. 90-831. Established.**

(a) *Statement of intent.* The OOS office and special service overlay district is intended to provide for limited size uses, such as offices, professional and special services, and specialized retail and customer services, in the typically residential areas which, because of proximity to major highways and adjacent commercial development, have commercial potential, and where the permissive uses are more than can be permitted as home occupations or residential businesses, but where it is important to adjacent uses to maintain a residential character by subjecting uses permitted in this section to such standards as are necessary to ensure compatibility.

(b) *Permitted uses by right.* Permitted uses by right in the OOS district shall include the following, subject to approval by the plan commission of building, site and operational plans:

- (1) Studios for photography, painting, music, sculpture, dance or other recognized fine art.
- (2) Real estate and insurance offices.
- (3) Professional offices of an architect, lawyer, doctor, dentist, engineer or other similar recognized profession.
- (4) Administrative and public service offices.

- (5) Specialized retail or customer service establishments of a restrictive nature, including, but not limited to, the following:
  - a. Antique shops;
  - b. Boardinghouses, lodginghouses or tourist homes;
- (6) Delicatessens;
- (7) Florist shops;
- (8) Funeral homes;
- (9) Gift shops;
- (10) Interior decorators;
- (11) Beauty shops and barbershops.

(c) *Permitted accessory uses.* Permitted accessory uses in the OOS district shall include the following:

- (1) Off-street parking and loading areas.
- (2) Signs as permitted in the B-1 district.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the OOS district shall include the following:

- (1) Dental and medical clinics.
- (2) Nursing homes, rest homes and homes for the aged.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and

- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.14(6); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-832--90-850. Reserved.**

### **Subdivision VIII.**

#### **OPD Planned Development**

**Sec. 90-851. Established.**

(a) *Statement of intent.* The OPD planned development overlay district is intended to provide for the implementation of the special regulations authorized by Wis. Stats. § 62.23(7)(b) and incorporated into this chapter as section 90-892.

(b) *Permitted uses by right.* Permitted uses by right in the OPD district shall include any use permitted in the underlying basic district, subject to the conditional regulations as to the manner in which permitted as provided in section 90-892.

(c) *Permitted accessory uses.* Permitted accessory uses in the OPD district shall include any accessory use permitted in the underlying basic district, but subject to the conditional regulations as to the manner in which permitted as provided in section 90-892.

(d) *Permitted uses by conditional grant.* Permitted uses by conditional grant in the OPD district shall include the following:

- (1) Any conditional use permitted in any district.
- (2) Any use permitted by right in any district.
- (3) Any accessory use permitted in any district.

(e) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(f) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and
- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.14(7); Ord. No. 13-2006, 11-27-2006; Ord. No. 11-2008, 7-14-2008)

**Secs. 90-852--90-870. Reserved.**

### **Subdivision IX.**

### **OCS County Shoreland Overlay Jurisdiction**

**Sec. 90-871. Established.**

(a) *Statement of intent.* The OCS county shoreland overlay jurisdiction designation is intended only to appear on the village zoning map as an aid to property owners and other users of the zoning map to remind such persons of the restrictions in force on lands falling within such area by virtue of the county zoning ordinance relating to floods and shorelands pursuant to sections 7.028 and 7.029 of such county ordinance.

(b) *Permitted uses.* Uses permitted in the OCS county shoreland overlay jurisdiction shall include any uses permitted in the underlying basic or overlay districts unless prohibited or subject to additional regulations imposed by the county floodland and shoreland controls.

(c) *Municipal sanitary sewer.* Municipal sanitary sewer is a prerequisite to issuance of building permits for development within 350 feet of municipal sanitary sewer, measured along public road right-of-way.

(d) *[Municipal water].* A landowner shall extend municipal water for their entire lot frontage prior to issuance of a building permit if all of the following conditions are met:

- (1) The nearest property boundary of the subject parcel is 350 feet or less measured along the public road right-of-way to an existing municipal water main; and
- (2) The proposed building construction (excluding parking, landscaping and stormwater management facilities) is valued in excess of 50 percent of the existing village improvement assessments on the subject parcel; and

- (3) The estimated municipal water main extension costs are less than the proposed building construction.

(Ord. of 8-8-1972, § 7.14(8); Ord. No. 11-2008, 7-14-2008)

**Sec. 90-872. Area requirements.**

Unless different area requirements are specified elsewhere in this Chapter, the following area requirements shall apply in the indicated districts.

			LOT SIZE			DENSITY			OPEN SPACE			BUILDING LOCATION						HEIGHT		F.A.R.(g)	FLOOR AREA				
													Minimum Offsets												
													Side Yard			Rear Yard									
						Minimum Area Per Dwelling or by Bedrooms			Minimum Area Per Dwelling or by Bedrooms			Minimum Setback (k)	Principal									Minimum Area Per Dwelling By Bedrooms			
SECTION	MAP SYMBOL	DISTRICT NAME	Minimu m Total Area Sq. Ft.		Mini mum Width , Ft. Interi or Corne r	1 BR	2 BR	3+ BR	1 BR	2 BR	3+ BR	(Street Yard)	Drive Sides(s)	Other Side	Access ory Structu re	Principal Structure	Accessory Structure	Maxi mum Princi pal Struct ure	Permitted Accessory Structure	Maximum Permitted	1 BR	2 BR	3+ BR		
	(BASIC HOLDING DISTRICT)																								
90.251	AUH	Agriculture-urban holding	Use agriculture district for farms				See district for other requirements																		
90.271	RCH	Redevelopment-conservation holding	See district for all requirements																						
(BASIC DISTRICT)																									
90.311	AG	Agriculture	(a)	(a)	(a)		20 Acres (h)			(h)		100	(h)--(m)	(h)--(m)		(h)--(m)	(h)--(m)	--(h)	--(h)	(h)	650	700	900		
90.331	W-F	Wetland-flood plain	--	--	--		--			--		(e)	(e)	(e)		(e)	(e)	30	15	(e)	--	--	--		
90.351	PUL	Public or utility lands	(a)	(a)	(a)		(a)			500		25	25	10		25	25	(e)	(e)	500	700	850			
90.571	B-1	Neighborhood business	(a)	(a)	(a)		3,000			950		25(n)	15	0 (c) or 10		25	5	30	15	50%	500	700	850		
90.591	B-2	Community business	(a)	(a)	(a)		3,000			950		25(n)	25	0 (c) or 10		0 (c) or 25	10	40	15	50%	500	700	850		
90.611	B-3	General business	(a)	(a)	(a)		3,000			950		25(n)	25	0 (c) or 5		0 (c) or 25	5	40	15	60%	500	700	850		
90.631	B-4	Office	(a)	(a)	(a)		3,000			950		25(n)	25	0 (c) or 10		25	10	40	15	50%	500	700	850		
90.651	BP	Business park	(a)	(a)	(a)		--			20% of Lot		40(n)-15(q)	25-10(q)	10-10(q)		25-15(q)	--	40 (w)	--	50%	--	--	--		
90.671	M-1	Industrial	(a)	(a)	(a)		3,000			950		25	25	0 (c) or 10		50	50	60	60	70%	500	700	850		

90.691	M-E	Industrial existing limited	(a)	(a)	(a)		3,000			950		10	15	0 (c) or 10		15	15	30	30	85%	500	700	850			
90.371	R-100	Residential single-family	12,000(j )	100	100		12,000(j)			7,500		25	12 (s)	8	10	25	10	36	15 (t)	25%		See Note (v)				
90.391	R-75	Residential single-family	9,000	75	75		9,000			5,000		25	12 (s)	8	10	25	10	30	15 (t)	25%		See Note (u)				
90.411	R-60	Residential single-family	7,200	60	70		7,200			2,300		25	10	8	3(p)	25	3(p)	30	15	30%	700	800	1,000			
90.431	R-50MH	Residential mobile home	6,000	50	50		6,000			1,900		20	12	6	5	10	5	30	15	35%	--	--	--			
90.451	R-40E	Residential existing limited	4,000	40	40		4,000			1,500		25	9	4	3(p)	25	3(p)	30	15	40%	600	700	850			
90.471	R-100D	Residential two family	12,000	100	100		6,000			3,500		25	14	8	10	25	10	30	15	25%	650	900	1,150			
90.471	R-75D	Residential two family	9,000	75	75		4,500			2,500		25	12	8	10	25	10	30	15	30%	650	800	1,000			
90.471	R-60D	Residential two family	7,200	60	70		3,600			1,150		25	11	8	3(p)	25	3(p)	30	15	35%	500	700	850			
90.491	RM-1	Residential multiple family	(a)	(a)	(a)	3,200	3,600	4,000	1,500	2,000	2,500	25	15	15	5	30	5	30	15	45%	650	700	900			
90.511	RM-2	Residential multiple family	(a)	(a)	(a)	2,700	3,000	3,300	500	1,000	1,500	25	15	15	5	35	5	35	15	60%	500	700	850			
90.531	RM-3	Residential multiple family	(a)	(a)	(a)	1,500	2,000	2,500	250	500	750	25	15	15	5	50	5	35	30	125%	500	700	850			
90.551	RM-4	Residential multiple family	(a)	(a)	(a)	1,000	1,250	1,500	400	600	800	30	20	20	10	50	10	60	30	175%	500	700	850			
(OVERLAY DISTRICTS)																										
90.731	OAG	Agriculture	Use agriculture district requirements																							
90.751	OEL	Extractive or land fill operations	See district for all requirements																							
90.771	OCR	Commercial and private recreation	(b)	(b )	(b)		(b)			(b)		(d)	(d)	(d)	(d)	(d)	(d)	(b)	(b)	(d)	(b)	(b)	(b)			

90.791	OIP	Institutional and public service	(d)	(b )	(d)		(b)			(b)		(d)	(d)	(d)	(d)	(d)	(d)	(d)	(e)	(b)	(b)	(b)		
90.811	OHS	Highway service	(b)	(b )	(b)		(b)			(b)		(b)	(b)	(b)	(b)	(b)	(b)	(b)	(b)-40%	(b)	(b)	(b)		
90.831	OOS	Office and special service	(b)	(b )	(b)		(b)			(b)		(b)	(b)	(b)	(b)	(b)	(b)	(b)	(b)	(b)	(b)	(b)		
90.851	OPD	Planned development	See section 90.892 for most requirements, See district for setback and offset																					
90.871	OCS	County shoreland jurisdiction	See county zoning ordinance, sections 7.028 and 7.029 for regulations																					
For further information consult section:			90.1001(e)			90.1001(f)			90.1001(h)			90.1001(b)(6)		90.1001(b)(7)					90.1001 (c)		90.9	90.1001(d)		
FOOTNOTES:																								
(a) As Necessary to meet other requirements			(f) With no basement of at least 200 Sq. Ft., Add 100 Sq. Ft.									(k) Greater setback required in certain cases, see 90.1001(b)(6)(b)						(s) Side load garages shall maintain a 20-foot offset						
(b) Same as underlying district			(See section 90.1001(d)(1) [for each bedroom over 3 add 150 Sq. Ft.])									(m) Minimum offsets must equal height of structure						(t) Height of accessory structure shall not exceed height of principal structure						
(c) If common walls permitted			(g) May be increased pursuant to 90.1001(g)									(n) No parking in required setback area												
(d) Use underlying district as guide			(h) Accessory residences use R-100, also see section 90.311(b)(1)									(p) For rule on measuring eave, see section 90.1001(b)(7)(b)						(u) 1,500 S.F. 1-story dwelling and 1,700 S.F. 1 1/2 and 2-story dwelling						
(e) Established separately in each case			(j) Or greater for unsewered development, see section 90.371(b)(1)									(q) Minimum to be in landscaping, see section 90.1005(d)						(v) 1,800 S.F. 1-story dwelling and 2,000 S.F. 1 1/2 and 2-story dwelling						
(w) May increase under Sec. 90-651(e)(2).																								

**Secs. 90-873—90-880. Reserved.**

**90-881. Limited commercial (OLC) overlay district.**

*Statement of purpose.* The Limited Commercial Zoning District (OLC) is intended for small commercial uses that are beyond the scope of a residential business or home occupation and may locate in predominantly rural areas. In appearance and operation, such uses are often similar to agricultural uses and therefore are to be only located within the Agriculture (AG) zoning district. Such uses which are secondary to an existing single family residence include, but are not limited to, contractor, transportation, building trades and landscaping operations, and are typically characterized by:

- (1) Low traffic volume (less than 10 trips per day);
- (2) Onsite activity limited to 6 a.m. – 10 p.m.
  - (a) Activities outside of the 6 a.m. – 10 p.m. hours shall be conducted indoors and not conflict with the Village's noise ordinance (section 54-5) as regulated by the Village Police Department.
- (3) Large, utilitarian buildings, often with metal siding.
- (4) Commercial businesses with 5 or less on-premise employees.

(a) *Prohibited Uses.* The uses are prohibited within the Limited Commercial (OLC) zoning district:

- (1) Retail sales.
- (2) Restaurants.
- (3) Personal services such as barbershops, beauty parlors, tanning parlors, tattooing, and similar personal services.
- (4) Manufacture, fabrication, assembly, construction or processing of goods/items, materials, or objects, except uses such as dressmaking, arts, and handicrafts, where goods are not manufactured or processed.
- (5) Outdoor lighting and signage in excess of two (2) square feet as permitted by Section 90-9.
- (6) Outdoor storage of materials, commercial/industrial equipment and/or vehicles.

- (7) Cabinet, Welding or Metal Working Shops that due to their fabricating nature pose a significant fire hazard.
- (8) Machine, tool and die, or similar type shops
- (9) New residential structures
- (10) Any other uses or occupation that would have negative impact on the neighborhood and property values, or affects the health, safety, and general welfare of adjacent residents and onsite employees.

(b) *Permitted Use By Conditional rant.*

- (1) Indoor storage of materials;
- (2) Indoor storage and maintenance of operable large commercial/industrial equipment;
- (3) Outside storage of flammable/hazardous liquids subject to building and fire code.

(c) *Site Design Requirements.*

- (1) The business shall be conducted within the enclosed area of the dwelling unit or attached/detached garage.
- (2) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the business.
- (3) No storage or display of materials, goods, supplies, or equipment related to the operation of the business shall be visible outside any structure located on the premises.
- (4) No use shall create smoke, odor, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district.
- (5) There shall not be more than two (2) attached/detached garage and/or shed structures onsite.

(d) *Building size limitations.*

- (1) For properties greater than two acres but less than five acres:

- (a) Commercial use of all garages shall not exceed 2,500 square feet in total floor area and all detached structures shall not exceed 30 feet in height.
- (2) For properties greater than five acres:
  - (a) Commercial use of all garages shall not exceed 5,000 square feet in total floor area and all detached structures shall not exceed 30 feet in height.
- (3) All structures shall meet minimum Village of Mount Pleasant and State of Wisconsin building, plumbing and fire protection standards and requirements. This may require the installation of a fire sprinkler system or bathroom facilities.
- (e) *Building setback requirements.*
  - (1) Setback from front lot line to highway right-of-way line shall conform to the requirements of section 90.872.
- (f) Rear and side yard requirements.
  - (1) The minimum side and/or rear setback(s) shall be equivalent to the height of the detached garage/shed when the entire subject property frontage lacks municipal water.
  - (2) The minimum side and/or rear setback(s) shall be twenty feet when the entire subject property frontage is improved with municipal water.
- (g) *Screening requirements.* The screening provisions of section 90-1011 (2) shall be complied with prior to the establishment of a commercial use. A detailed landscape plan maybe required by the Plan Commission. All required landscaping shall be completed prior to final building inspection and/or use of the structure.
- (h) *Null and Void.* Sale or transfer of the property shall cause the conditional use permit to be null and void. A new conditional use permit shall be required prior to operation of any business within the AG district.

**Secs. 90-882 -- 90-890. Reserved.**

## **DIVISION 5.**

### **RESIDENTIAL CLUSTERS AND PLANNED DEVELOPMENT DISTRICTS**

#### **Sec. 90-891. Residential cluster developments.**

(a) *Permitted.* For the purpose of permitting and encouraging the provision of public or private parks and common open spaces within close proximity to all housing in any basic residential development district, the required minimum lot area and open space per dwelling may be reduced or clustered, provided that at least 85 percent of the difference between such requirements and the area actually provided is devoted to approved public or private parks and common open spaces.

(b) *Procedure.* Approval of such developments shall be as conditional use grants, and may be permitted in any single-family or two-family district. The plan commission, in recommending for action by the village board, shall satisfy themselves that:

- (1) The resultant common open space is suitable for its use as it relates to location, access, size and shape, proposed degree of improvement for recreational use or proposed degree of protection from damage if a natural area;
- (2) An adequate guarantee is made for retention of proposed private open spaces in their proposed uses and against building or other development (except as consistent with the open space objective), which shall be accomplished by conveying to the village, as part of the conditions of approval, a land covenant to be approved by the plan commission and recorded at the county register of deeds' office, restricting the area as required in this section;
- (3) In the case of a private open space proposal, the care and maintenance of such open space shall be ensured either by establishment of an appropriate management organization or property owner's association for the project or by agreement with the village for establishment of a special service district for the project area on the basis of which the village shall provide the necessary maintenance service and levy the cost thereof as a special assessment on the tax bills of properties within the project area. In any case, the village shall have the right to carry out and levy an assessment for the costs of any maintenance which it feels is necessary if such maintenance is not otherwise taken care of to the satisfaction of the village. The manner of assuring maintenance and assessing such costs to individual properties shall be determined prior to the approval of the final project plans and shall be included in the title to each property.

- (4) Ownership and tax liability of private open space areas shall be established in a manner acceptable to the village, and made a part of the conditions of the plan approval.
- (5) Adequate financial guarantee that such common open space will be developed or protected as proposed is made by the owners or developers in the form of bonds, sureties or letters of credit acceptable to the village pursuant to the procedures used in the building and platting of public streets.

(Ord. of 8-8-1972, § 4.1)

#### **Sec. 90-892. Planned developments.**

(a) *Permitted.* For the purpose of permitting, pursuant to Wis. Stats. § 62.23(7)(b), and promoting development that would derive maximum benefit from coordinated area site planning, diversified location of structures and mixed compatible uses, resulting in the provision of a safe, efficient system for pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic design and location of public and private utilities and community facilities, and ensuring adequate standards of construction and planning, the unified and planned development of a site, in single or corporate ownership or control at the time of application under this section, may be permitted in an OPD planned development overlay district without the customary division into individual lots on public streets, or without specific compliance to the district regulations as applicable to individual lots, subject to the regulations established in this section and in the OPD district.

(b) *Procedure.*

- (1) *Minimum area.* In order to be approved under this section, proposed developments must be at least the following size:

Principal Uses	Minimum Project Size (square feet)
Residential and open space uses	100,000
Mixed compatible uses	200,000
Commercial-industrial uses	200,000

- (2) *Application of regulations.*

- a. In addition to the uses permitted in the underlying district, any other use may be permitted as designated in this section for the OPD district, consistent with the criteria established in subsection (c) of this section.
- b. Individual uses and structures in a planned development district need not comply with the specific building location, height, building size, floor area, lot size and open space requirements of

the underlying basic district, provided that the spirit and intent of such requirements are complied with in the total development plan for such project, consistent with the criteria established in subsection (c) of this section, and subject to such further intent specified in this article for the OPD district.

(3) *Prepetition conference.* Prior to officially submitting a petition, the petitioner shall meet with the plan commission for a preliminary discussion as to the scope and proposed nature of the contemplated development, especially as it relates to the petitioner's intentions to submit a general or detailed application.

(4) *Petition.*

a. Following the prepetition conference, petition may be made to the clerk-treasurer by the owner or agent of the property proposed for such development, to amend the zoning map by the overlaying of an OPD district in order to permit the application of the provisions of this section to such development. Such petition shall be accompanied by a fee as required in section 90-47, and the following information, in appropriate detail as to the type of approval, general or detailed, desired (see subsection (c)(2) of this section):

1. A statement describing the general character of the intended development and the desirability of applying the requirements of this district rather than those ordinarily applicable through basic zoning. The statement should at least include:
2. Statistical data on the total size of the project area, area of open space, residential density computation and proposed number of units, population analysis, market analysis, economic analysis, impact upon municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
  - i. A general summary of financial factors, such as the value of structures, estimated improvement costs, amount proposed for landscaping and special features, estimated sale or rental price and total anticipated development cost of the project.
  - ii. General outline of the intended organizational structure related to the property owner's association, deed restrictions and provision of private services.

3. A general development plan and related maps and plans, including descriptive statements of objectives, principles and standards used on its formulation of the project, showing at least the following information as may be required by the plan commission and village board to apply the criteria for approval as set forth in this section:
  - i. An accurate map of the project area, including its relationship to surrounding properties.
  - ii. The pattern of public and private roads, driveways, parking facilities and intended design standards.
  - iii. The size, arrangement and location of lots or proposed building groups.
  - iv. The location of recreational and open space areas and areas reserved or dedicated for public uses, such as a school, park, etc.
  - v. The type, size and location of structures.
  - vi. General landscape treatment.
  - vii. Architectural drawings and sketches, illustrating the design and character of the proposed structures.
  - viii. The location of sanitary sewer and water facilities.
  - ix. Existing topography and storm drainage pattern and the proposed storm drainage system, showing basic topographic changes.
4. The petition shall be referred to the plan commission and processed as a zoning change. Upon completion of the necessary study and investigation, the plan commission shall make its recommendation to the village board as to the appropriateness and desirability of the application of the OPD district as it relates to the suitability of the building, site and development plans and any additional conditions which it may feel necessary or appropriate.
5. Upon receipt of the plan commission's recommendation, the village board, before taking affirmative action to approve such petition, shall hold a public hearing pursuant to statutory provisions for zoning amendments. Notice for

such hearing shall include reference to the consideration of the proposed project development plans coincident with the requested zoning change.

6. Where a proposed development includes uses permitted only as conditional grants pursuant to sections 90-104 and 90-105, compliance with the procedural and general requirements set forth in subsection (c) of this section as the basis for approval shall supplant the requirement for separate processing of a petition for a conditional use grant.

(c) *Basis for approval.*

- (1) *Requirements.* The plan commission in making its recommendations, and the village board in making its determination, shall give consideration and satisfy themselves that:

- a. The proponents of the proposed development have demonstrated that they intend to start construction within a reasonable period of time following the approval of the project and requested overlay of the OPD district, and that the development will be carried out according to a reasonable construction schedule which is satisfactory to the village.
- b. The proposed development is consistent in all respects to the purpose of this section and to the spirit and intent of this chapter; is in conformity with the general plans for community development; would not be contrary to the general welfare and economic prosperity of the village or the immediate neighborhood; the specific development plans have been prepared with competent professional advice and guidance; and the benefits and improved design of the resultant development justifies the variation from the normal requirements of this chapter through the application of the OPD district.
- c. In the case of proposed residential developments:
  1. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the neighborhood.
  2. The total average residential density of the project will be compatible with the general plan:

- i. Where the land is in the urban holding district, the average residential density allowable shall be in the average as specified in the adopted general plan or in the adopted neighborhood plan for the subject site.
- ii. For specific project density, computation where the land is partly or entirely in a basic residential development district, the project area shall be measured to include all of the land, exclusive of existing public rights-of-way or public open space easements. The allowable maximum density shall be computed separately for each existing basic district which applies to the project area, except for industrial, wetland-floodplain and agricultural districts. The density shall be computed by multiplying the area in each such district by the percentage factor given in the following table, and then dividing the result by the number of square feet per family as required by the district. The total allowable density for the project is the sum of such individual computations. In the case of a project which includes land classified as wetland-floodplain, the total allowable density may be increased by the percentage which such land is of the total project area, but in no case more than 40 percent.

Underlying Basic District	Percentage Factor	Density Per Family (square feet)
AUH RCH R40E	100 100 100	(As determined in the adopted general or neighborhood plan)
R100	90	12,000
R75	85	9,000
R60	80	7,200
R50MH	75	6,000
R100D	90	6,000
R75D	85	4,500
R60D	80	3,600
R50D	75	3,000
RM-1	100	3,600
RM-2	100	2,700
RM-3	100	1,500
RM-4	100	1,000
B-1	100	2,700
B-2	100	2,700
B-3	100	2,700

- iii. An increase in the allowable maximum density, not to exceed ten percent, may be permitted upon recommendation of the plan commission, and the increased density is justified in terms of the relationship to open areas, service demand and the total quality and character of the project.
  - iv. The population composition of the development will not result in adverse effects from that anticipated in the general plan upon the community's capacity to provide needed school or other municipal service facilities.
  - v. An adequate guarantee is provided for permanent retention as open area of open land area resulting from the application of the regulations of this section, either by private reservation as regulated in section 90-891(b) or by dedication to the public.
- d. In the case of proposed commercial developments:
  - 1. The economic practicality of the proposed development can be justified on the basis of purchasing potential competitive relationship and demonstrated tenant interest.
  - 2. The proposed development will be adequately served by off-street parking and truck service facilities.
  - 3. Locations for entrances and exits have been designed to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and the development will not create an adverse effect on the general traffic pattern of the area.
  - 4. The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with, and not adversely affecting, the property values of the surrounding neighborhood.
- e. In the case of proposed industrial developments:
  - 1. The operational character, physical plan arrangement and architectural design of buildings will be compatible with the latest in performance standards and industrial

development design, and will not result in an adverse effect upon the property values of the surrounding neighborhood.

2. The proposed development will have adequate provision for off-street parking and truck service areas, and will be adequately served by rail or highway facilities.
3. The proposed development is properly related to the total transportation system of the village and will not result in an adverse effect on the safety and efficiency of the public streets.

f. In the case of mixed developments:

1. The proposed mixture of uses produces a unified composite which is compatible within itself and which, as a total development entity, is compatible with the surrounding neighborhood and consistent with the general objectives of the general plan.
2. Various types of uses conform to the general requirements as set forth in this section which are applicable to projects of such character.
3. Allowable maximum residential density shall be computed in the same manner as provided in subsection (c)(1)c.2. of this section. Such figure shall then be reduced by the percentage which any nonresidential use, landscaped area, pedestrian malls or other areas which, in the opinion of the plan commission, contribute to the enhancement of the total project environment which may be excluded. The resulting allowable maximum density may be increased by the addition of residential units located in the same building with a nonresidential use, on the basis of one dwelling unit for each 3,600 square feet of nonresidential use area excluded from the normal density computation.

(2) *Determination.*

- a. The village board, after due consideration, may deny the petition as submitted, approve the petition or approve the petition subject to additional conditions.
- b. The general or detailed approval of a petition and consequent amending of the zoning map by overlay of the OPD district shall be based on and include conditions to the building, site and

operational plans for the development as approved by the village board, and shall be mapped and recorded as provided for conditional uses under sections 90-104 and 90-105.

1. *General approval.* Plans submitted for such approval need not necessarily be completely detailed at the time of overlay zoning, provided they are of sufficient detail to satisfy the plan commission and village board as to the general character, scope and appearance of the proposed development. Such preliminary plan shall at least designate the pattern of proposed streets; the size and arrangement of lots as in the preliminary platting process, which may indeed also be involved; the basic pattern of land use; and illustrate a typical example of the development proposed. The approval of such preliminary plan shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as the development progresses so that all detailed approvals are complete before an occupancy certificate is required.
  2. *Detailed approval.* Plans submitted for detailed approval shall be sufficiently precise so that all factors that need to be identified under sections 90-104, 90-105 and 90-1005 are presented, and that any approvals given are all that would be necessary prior to issuance of a zoning permit.
- c. Any subsequent change or addition to the plans or use shall first be submitted to the plan commission for approval and if, in the opinion of the plan commission, such change or addition constitutes a substantial alteration of the original plan, a public hearing before the village board shall be required and notice thereof shall be given pursuant to section 90-75, and the amendment may or may not be approved by the village board.
- d. The provisions of sections 90-104 and 90-105 governing termination of the conditional grant shall apply to such planned development.

(Ord. of 8-8-1972, § 4.2)

**Secs. 90-893--90-920. Reserved.**

## ARTICLE V.

### SIGNS

#### Sec. 90-921. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Electronic changeable copy sign* means a sign or portion thereof that displays electronic, text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays.

*Electronic graphic display sign* means a sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without information, defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixelization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

*Electronic messaging sign* means an electronic changeable copy sign or an electronic graphic display sign.

*Flat wall sign* means a sign painted on a building, and any other sign, the back of which is attached to the facade of a building and where no part of the structure of the sign extends more than 12 inches out from the facade, as measured near the points of attachment to the building.

*Flashing sign* means a directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling, or sparkling.

*Freestanding sign* means a sign which has its own base of support from the ground, extending more than three feet in height from the ground and not attached to a building.

*Ground sign* means a freestanding sign, not extending more than three feet in height.

*Illuminated sign* means any sign which contains an element designed to emanate artificial light internally or externally.

*Projecting sign* means a sign attached to a building, portions of which extend out beyond 12 inches from the point of attachment, typically having two or more viewable sides, but for purposes of this article, only one side need be counted as a side for measuring its allowable area and the sign count. Signs printed on or affixed to awnings and canopies shall also be considered projecting signs.

*Roof sign* means a sign, the lowest point of which is visually separate from and above the highest point of the roof.

*Video display sign* means a sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

(Ord. of 8-8-1972, §§ 6.2(2), 6.3(3); Ord. No. 9-08, 7-14-2008)

**Cross References:** Definitions generally, § 1-2.

#### **Sec. 90-922. Use restricted.**

In any district, no sign shall be permitted, except as specified in such district or as otherwise regulated in this article. All signs shall also meet all of the structural requirements of local and state building codes.

(Ord. of 8-8-1972, § 6.1)

#### **Sec. 90-923. Permit required.**

No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered after the effective date of the ordinance from which this article is derived without a zoning permit for signs, except signs specifically exempted in section 90-926.

(Ord. of 8-8-1972, § 6.2(1))

#### **Sec. 90-924. Prohibitions.**

(a) *Hazards or nuisances.* No sign which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining property in the following ways shall be permitted in any district:

- (1) No sign shall be placed to obstruct or interfere with traffic visibility, nor in such a way to cause glare or impair driver visibility upon public ways;
- (2) Signs shall not rotate, nor have or be illuminated by moving or flashing lights (except electronically controlled, intermittent lights that form the

message are permitted, subject to approval by the plan commission under section 90-1005), nor resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices, nor obstruct or interfere with the effectiveness of such devices;

(3) No sign shall be erected, relocated or maintained to prevent free ingress to or egress from any door, window or fire escape; and

(4) No sign shall be attached to a standpipe or fire escape.

(b) *Nonaccessory signs.* No sign not directly related to the use of the premises on which it is located, except directional signs as provided in section 90-928, shall be permitted in any district. Signs showing time, temperature and similar information not related to the premises are permitted, but must be counted as part of the allowable sign area.

(c) *Roof signs.* Roof signs shall be prohibited. Signs on the face of mansard or gable roofs shall be considered wall signs.

(d) *Abandoned signs.* Business signs that advertise an activity, business product or service which is no longer conducted or available on the premises on which the signs are located shall be prohibited.

(e) *Parking of advertising vehicles.* No person shall park any vehicle or trailer on a public right-of-way or on public or private property so as to be visible from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby property or any premises. This subsection is not intended to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a motor vehicle.

(Ord. of 8-8-1972, § 6.3)

## **Sec. 90-925. Nonconforming signs.**

The existing lawful use of a sign at the time of the enactment of the ordinance from which this chapter is derived or any amendment thereto may be continued as a legal nonconforming use under the terms of section 90-101, except as follows:

(1) Non-accessory signs, except directional signs as permitted in section 90-928, shall be considered sufficiently amortized by December 31, 1985, and the owners of such signs or the owners of property on which such signs are located shall cause such signs to be removed. Upon failure of the sign owners or property owners to remove such signs, the building inspector shall, following 60 days' written notice to either owner, cause the signs to be removed and the expense for such removal shall be billed to the owners of the signs.

- (2) Freestanding signs, nonconforming as to location, after a three-year period from the date of adoption of the ordinance from which this chapter is derived, shall be either moved to conform to the locational requirements of the district in which such signs are located, or be removed by the owners or the building inspector, as prescribed in subsection (1) of this section.

(Ord. of 8-8-1972, § 6.4)

#### **Sec. 90-926. Exemptions.**

The following signs may be erected and maintained without a zoning permit, provided they do not constitute a hazard or nuisance:

- (1) Temporary political posters shall be permitted, provided such signs are not placed on public property and not displayed before one year of the date for election to a national or state legislative or judicial office, nor before the date of circulating nomination papers for a school, municipal or other local elected office, nor more than six months before a referendum, and are removed within 21 days after the election. Such signs shall be erected only on private property.
- (2) Operational signs designating entrances, exits, service areas, parking areas, restrooms and other such signs relating to the functional operation of the building or premises, including no trespassing signs, etc., shall be permitted, without limitation, other than reasonable size and necessity, as determined by the plan commission, upon complaint.
- (3) Real estate signs advertising the sale or lease of the premises on which the signs are located shall be permitted, provided, in residential districts, such signs are limited to nine square feet and one sign per street frontage, and in all other districts are limited to 32 square feet. Permanent rental signs, such as for apartments, shall be limited to 12 square feet.
- (4) Public agency signs erected by national, state, county or municipal governmental agencies, including traffic and informational signs, shall be permitted.
- (5) Residential nameplates identifying owners or occupants shall be permitted, provided no more than two such signs are erected, each being less than two square feet in area. Home occupation signs shall be counted in this numerical and size limitation.
- (6) Agricultural product sale signs shall be permitted when limited to one sign per highway frontage, not exceeding 20 square feet in area, and related to the agricultural premises on which the signs are installed.

- (7) Interior and inside window signs installed inside a building, whether intended for viewing from inside or outside the building, shall be permitted, without limitation as to size or number.
- (8) Price or temporary item signs which advertise the price of products or services offered on the premises or of special temporary goods or services being sold or offered shall be permitted, up to 12 square feet in area for each sign, provided the signs are not illuminated and no more than four signs are erected on a property, and are no closer than five feet to the property lines.
- (9) Signs for nonconforming uses shall be permitted, provided such signs are located over the show windows or doors and announce, without display or elaboration, only the name of the businesses, the types of businesses and do not exceed 20 square feet in area.
- (10) Memorial signs, tablets, names of buildings and dates of erection shall be permitted, when cut into any masonry surface or when constructed of metal and affixed flat against the buildings.
- (11) Construction signs, limited to one construction sign per construction project, not exceeding 32 square feet in sign area, shall be permitted, provided that such signs shall be erected no more than five days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction and shall be removed five days after completion of construction and prior to occupancy.
- (12) The flags, emblems or insignias of a nation or subdivision, or a corporate flag shall be permitted. Pennants, banners or streamers not qualifying as such flags are prohibited, except as permitted holiday decorations.
- (13) Signs of a primarily decorative nature, clearly incidental and customary and commonly associated with any national, local or religious holiday, shall be permitted, provided that such signs shall be displayed for a period of not more than 60 consecutive days.
- (14) Murals or other artwork judged by the plan commission, upon referral by the building inspector, not to be signs shall be exempt from this article.

(Ord. of 8-8-1972, §§ 6.2(2); 6.5)

#### **Sec. 90-927. Temporary signs.**

(a) A sign for the purpose of designating a new building or development or for promotion of a subdivision may be permitted for a limited period of time in any district with the approval of the plan commission and subject to the following:

- (1) Drawings showing the specific design, appearance and location of the sign shall be submitted to the plan commission for approval.
- (2) The permitted size of any such sign shall be at the discretion of the plan commission, based upon the character of the area, type and purpose of the sign and the length of time permitted, provided the setback and side yard requirements shall be as specified for the district in which the sign is located.
- (3) Such sign may be permitted for a period up to one year, and an extension may be permitted for a period not to exceed a total of two years.

(b) A sign for the purpose of announcing a special event, or for a similar special informational purpose, may be permitted for a maximum of 30 days at a time, and not more frequently than three times per year, nor more than once every 90 days, for any one applicant, in any district, with the approval of the plan commission and subject to the following:

- (1) Drawings and specifications showing the specific design, physical and electrical installation plan, appearance and location of the sign shall be submitted to the plan commission for approval.
- (2) The permitted size of any such sign shall be discretionary with the plan commission, based upon the character of the area, type and purpose of the sign and length of time permitted, provided setback and side yard requirements shall be as specified for the district in which the sign is located and vision corners are preserved pursuant to section 90-1001(b)(6)e.
- (3) Where the sign is to contain electrical service, it shall contain a recognized testing laboratory label, such as the Underwriters' Laboratory, Inc., a ground-fault interrupter device (GFI) and meet applicable provisions of the village electrical code, including the issuance of an electrical permit for such sign. Installations exposed to wind damage shall be made secure up to wind speeds as enumerated in the building code for such similar structures as serial masts.

(c) Notwithstanding the provisions of section 90-926(8) and subsections (a) and (b) of this section, any portable sign shall require plan commission approval, which will include the time period during which the portable sign will be permitted.

- (1) To ensure compliance with any time period imposed by the plan commission, the applicant shall post with the plan commission, cash in the amount of \$1,000.00, and should the applicant fail to remove such portable sign within the time period set by the plan commission, the cash will be forfeited, and otherwise the cash will be returned to the applicant. In addition, the village may issue a complaint for an ordinance violation against any party who fails to comply with the terms of the permit issued

by the plan commission, including failure to remove the portable sign in a timely manner.

- (2) For the purposes of this subsection (c), the term "portable sign" means and includes any sign which has wheels or which is designed to be moved from place to place by a trailer.
- (3) The provisions of this subsection (c) shall become effective as to all such existing portable signs 60 days after the adoption of the ordinance from which this chapter is derived.

(Ord. of 8-8-1972, § 6.6)

#### **Sec. 90-928. Directional signs.**

(a) A sign not to exceed 12 square feet in area, for the purpose of directing persons to commercial or industrial establishments within the village or to service clubs, churches or other nonprofit organizations within the county, may be permitted in any district, other than a residential district. Signs up to 30 square feet in area may be permitted, provided the sign is designed with a substantial landscape base area and illumination on each side is limited to exterior lighting, not exceeding 75 watts per 15 square feet of sign area.

(b) A sign not to exceed six square feet in area, indicating the direction to a church, hospital, school or other public service building, may be permitted in any district. Not more than four such signs may be erected within the village for any single business or organization.  
(Ord. of 8-8-1972, § 6.7)

#### **Sec. 90-929. Quasipublic informational signs.**

Noncommercial signs of a general information nature, such as community welcome, safety warning or a similar nature, not to exceed 12 square feet in area, may be erected by service clubs or other nonprofit organizations, upon approval of the plan commission of the location, size and appearance of such sign. No such sign may be directly illuminated.  
(Ord. of 8-8-1972, § 6.8)

#### **Sec. 90-930. Conditional or overlay district use signs.**

Subject to the regulations set forth in sections 90-104 and 90-105, signs appropriate to permitted conditional uses, or uses permitted in the overlay districts without sign regulations contained therein, may be permitted as determined by the plan commission, notwithstanding limitations in the basic district to the contrary. In establishing the size and locational requirements of such signs, the plan commission shall be guided by the requirements imposed for similar uses in any of the basic districts.  
(Ord. of 8-8-1972, § 6.9)

### **Sec. 90-931. Project signs.**

The following signs not relating to a specific use, but to a grouping of uses, may be permitted by the plan commission, as follows:

- (1) *Commercial or industrial center signs.* A sign identifying a grouping of commercial or industrial uses may be permitted with the approval of the plan commission, in lieu of all or some of the individual use freestanding signs, and the plan commission may, in such cases, modify the regulations applicable to the height, size and location of such sign, consistent with the spirit and intent of such regulations.
- (2) *Residential neighborhood signs.* Signs limited to identifying the name of a neighborhood area, such as a subdivision or housing development, and limited to 12 square feet in area, may be permitted at each entrance to the area, provided the approval of the plan commission is first obtained that each such sign will not create a traffic hazard, is aesthetically in keeping with the character of the neighborhood and will not cause a depreciation of property values in the adjoining area. Such signs which are designed either as an integral part of the architecture of a building or as part of a landscape architectural feature, such as a wall, shall be permitted, without limitation as to size, if the plan commission determines that such standards would be met.
- (3) *Institutional signs.* A sign not exceeding 15 square feet in area, giving the name and nature of occupancy and information as to the conditions of use or admission, may be permitted at each entrance to the grounds or buildings of a private institution, provided the approval of the plan commission is first obtained that each such sign will not create a traffic hazard, is aesthetically in keeping with the character of the neighborhood and will not cause a depreciation of property values in the adjoining neighborhood. Such signs which are designed either as an integral part of the architecture of a building or as a part of the landscape architectural features, such as a wall, shall be permitted, without limitation as to size, if the plan commission determines that such standards would be met.

(Ord. of 8-8-1972, § 6.10)

### **Sec. 90-932. Locational regulations.**

(a) *Height and area.* No freestanding sign shall exceed the height from the ground as specified in section 90-933. Signs shall not have more than four faces and area limitations shall be applied separately to each sign face, including the overall sign and frame area in the measurements, except that in signs consisting of individual letters and symbols affixed to a building as an architectural element, only the individual items shall be measured. Uprights and supports shall be measured only where they become a part of the sign's message or image projecting function due to the shape, color or illumination of such uprights or supports.

(b) *Setbacks and offsets.* No portion of any sign, other than those permitted as accessory uses to residences, shall be permitted closer than 15 feet to the street line, and no closer to any other property line than the required minimum offsets of regulations of the district in which the sign is located. Ground signs may be permitted as close as five feet to the street line. (Ord. of 8-8-1972, § 6.11)

### Sec. 90-933. Area and locational requirements by district.

Individual district regulations shall be consulted for regulations in the residential and other districts not shown in the following table:

Zoning District	Flat Wall Signs (1) Signable Area Factors (Square Feet)		Projecting Signs (2), (3) Maximum Sign Size	Ground Signs and Freestanding Signs (4), (5), (7), (8)			Freestanding Signs Only (6)
	Front Facade	Side Facade	Square Footage	Front Facade	Side Facade	Maximum Square Feet*	Sign Height (Feet)
B-1	0.5	0.3	12	0.5	0.3	20	20
B-2	1.0	0.5	20	0.7	0.5	60--110*	20--35
B-3	1.0	0.5	30	1.2	1.0	100--200	20--35
B-4	1.0	0.5	20	0.7	0.5	60--110*	20--35
B-P**	1.0	0.5	20	1.2	1.0	100--200*	20--35
M-1	1.5	1.0	50	1.2	1.0	150--400*	30--50
M-E	0.7	0.5	12	0.5	0.3	15*	20
OIP	1.0	0.5	20	0.5	0.3	30--70*	20--35
OHS	0.7	0.3	20	1.2	1.0	75--150*	30--50
OOS	0.5	0.3	12	0.5	0.3	20*	20
AUH	No signage allowed						

*	Relative to building facade limitation
**	District added 10/28/1993

#### Footnotes:

Signs for these districts, per section 90-932(b), must have a minimum street setback of 15 feet and a minimum side yard offset as required for the individual district by article VII (see sections 90-1001--90-1006).

- (1) Square feet of allowable sign area (no limit on number of signs totalling such area) applicable only to ground floor uses, per lineal foot of building facade, per business use, per each street frontage of the business building, projected at right angles to the street (no transferring of unused sign potential from one street facade to another). A retail or service business facade facing its customers' parking area shall qualify as a front street. On signs composed of individual letters affixed to a building, only a rectangle around each letter shall be measured to compute sign area, but where the sign background is made a different color from the building, such as by painting, the area of contrasting color shall be measured.

- (2) One sign allowed for the first 50 feet, or fraction thereof, of building facade street frontage per ground floor business use, plus one sign for each 50 feet, or fraction thereof, over 50 feet. No such signs permitted for second floor or above uses, except in lieu of allowable first floor projecting signs.
- (3) Sign may not extend more than six feet from the building facade, nor lower over a private walkway than eight feet, and in no case may it extend into a public right-of-way.
- (4) Ground signs shall not be placed so as to block visibility at street and drive intersections (see section 90-1001(b)(6)e.).
- (5) One such ground sign or freestanding sign allowable for each 100 feet, or fraction thereof, of building facade per street frontage.
- (6) As measured from the ground grade at the sign setback. In cases of substantial variance between the ground grade and the average centerline grade of the viewing pavement within 200 feet of the sign, such centerline grade may be accepted in lieu of the ground grade. Freestanding sign height may be increased up to the second figure shown as specified per district, and one foot for each foot of additional setback beyond the minimum requirement.
- (7) Square feet of allowable sign area per lineal foot of building facade, projected at right angles to the street, per each street frontage up to the lower maximum size shown in each district under subsection (8) of these footnotes. Allowable sign size shall be applied separately to each sign facade, up to a maximum of four faces per sign. As an alternative, allowable sign size may also be computed by applying one-half the factor shown to the lot frontage and the applicant may use whichever method yields the largest allowable size.
- (8) Maximum allowable sign area in square feet may be increased to the second figure shown, at the rate of one foot for each additional foot of sign setback beyond the required setback, except for uses that serve the traveling public, such as motels, restaurants and automobile service stations, and which are located within 300 feet of an interstate freeway. Such signs may be doubled in size at the setback, provided they meet state regulations.

(Ord. of 8-8-1972, § 6.12)

#### **Sec. 90-934. Electronic signs.**

(a) *Statement of intent.* This section is designed to establish a comprehensive and balanced system of electronic sign control that accommodates the need for a well-maintained,

safe and attractive environment within the village, and the need for effective communications including business identification. It is the intent of this section to promote the health, safety, general welfare, and aesthetics of the village by regulating electronic signs that are intended to provide reasonable communication to the public to achieve the following specific purposes:

- (1) To eliminate potential hazards to motorists and pedestrians using the public streets, sidewalks, and rights-of-way.
- (2) To safeguard and enhance private investment and property values.
- (3) To control public nuisances.
- (4) To protect government investments in public buildings, streets, sidewalks, traffic control and utility devices, parks, and open spaces.
- (5) To preserve and improve the appearance of the village through adherence to reasonable aesthetic principles, in order to create an environment that is attractive to residents and to nonresidents who come to live, visit, work, or trade.
- (6) To eliminate excessive and confusing sign displays.
- (7) To encourage signs which by their design are integrated with and harmonious to the surrounding environment and the buildings and sites they occupy.

(b) *Prohibited uses:*

- (1) All electronic messaging signs that are taller than nine feet and are larger than 30 percent of the total allowable square footage within a ground sign or wall sign as defined by section 90-933.
- (2) All video display signs.
- (3) All off-site electronic messaging signs.

(c) *Lighting.* Signs shall not be erected or maintained which contain, include, or are illuminated by any flashing light, electronic change in messages, electronic change in background colors, electronic change in light intensity, or electronic video display, except those giving highway public service information such as lane closures, road closures, detours, and those giving time, date, and temperature, and those as provided below:

- (1) Signs shall not be erected or maintained which are not effectively shielded so as to prevent:

- i. Beams or rays of light from being directed at any portion of the traveled way of any roadway, or
  - ii. Beams of light of such intensity or brilliance as to cause glare or impair vision of the operator of any motor vehicle.
- (2) No sign shall be erected or maintained which shall be so placed or illuminated that it interferes with the effectiveness or obscures any official traffic sign, device, or signal, or any official sign.

(d) *Construction.* Electronic messaging signs are subject to the following provisions and requirements:

- (1) The location of the sign shall be consistent with all other requirements of section 90-932.
- (2) All electronic messaging signs shall be constructed within a ground sign or within a buildings façade, but all signs shall be no taller than nine feet measured from the grade.
- (3) All electronic messaging signs shall be no more than 30% of the total allowable square footage as required by section 90-933.
- (4) The electronic display background color tones, lettering, logos, pictures, illustrations, symbols, and any other electronic graphic or video display shall not blink, flash, rotate, scroll, change in illumination intensity, or otherwise change in outward appearance, except when the electronic message or display is changed to another message or display.
- (5) The electronic display background color tones, lettering, logos, pictures, illustrations, symbols, for on-site advertising signs shall not change more than once per five minutes.
- (6) The electronic display, lettering, logos, pictures, illustrations, symbols shall be one uniform color during each message that is being displayed.
- (7) The maximum duration of the transition of the electronic image or message change shall be no more than two seconds. Vertical and/or horizontal transitions between message changes are prohibited.
- (8) All electronic messaging signs shall be equipped with a default mechanism that will stop the messaging or freeze the image in one position when a malfunction in electronic programming occurs.
- (9) All electronic messaging signs shall be designed and constructed to have a nonilluminated background.

- (10) Electronic messaging signs shall not exceed a maximum illumination of 5000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness.
- (11) Electronic messaging signs shall have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half-hour before sunset and one-half-hour after sunrise.
- (12) Audio speakers are not allowed with any electronic messaging sign.
- (13) Any form of pyrotechnics is prohibited in association with an electronic messaging sign.

(e) Permitted electronic messaging signs, not facing public roads or residential properties and used in drive-through restaurants, gasoline stations, and similar establishments serving motorists, shall comply with all provisions of this subsection provided the electronic messaging sign area does not exceed eight inches in height or four feet in width or extend more than five feet above the ground. Audio speakers used in connection with signs permitted in this subsection shall not be audible beyond the property on which the sign is located or 150 feet, whichever is less.

(Ord. No. 9-08, 7-14-2008)

**Secs. 90-935--90-960. Reserved.**

## **ARTICLE VI.**

### **PERFORMANCE STANDARDS**

#### **Sec. 90-961. Purpose; compliance required.**

The performance standards enumerated in this article are designated to limit, restrict and prohibit the effects of uses permitted by this chapter outside their premises. The use of all structures, land, air and water shall, after the effective date of the ordinance from which this chapter is derived, in addition to complying with the use, site and sanitary regulations contained in this chapter, comply with the performance standards set forth in this article.

(Ord. of 8-8-1972, § 8.1)

#### **Sec. 90-962. Air pollution.**

No activity shall be permitted which emits air pollutants in excess of the standards permitted by the county air pollution control ordinance in sections 9.0--9.28 of the county code of ordinances.

(Ord. of 8-8-1972, § 8.2)

**Sec. 90-963. Fire and explosive hazards.**

All activities involving the manufacturing, utilization, processing or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in compliance with state administrative code standards.

(Ord. of 8-8-1972, § 8.3)

**Cross References:** Fire prevention and protection, ch. 34.

**Sec. 90-964. Glare and heat.**

No activity shall emit glare or heat that is visible or measurable outside the premises of the activity, except activities in the industrial districts which may emit sky reflected glare which shall not be visible at ground level outside the premises.

(Ord. of 8-8-1972, § 8.4)

**Sec. 90-965. Water quality protection.**

No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, or gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life. In addition, no activity shall withdraw water or discharge any liquid, gaseous or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and the application of such standards set forth in Wisconsin Administrative Code for the following waters and their uses:

Water Body	Standards
Hood's Creek	Minimum standards.
Pike Creek	Minimum standards.
Root River	For fish and other aquatic life. For partial body contact recreation.
Sorensen Creek	Minimum standards.
Lake Michigan	For public water supply. For fish and other aquatic life. For whole body contact recreation. For industrial and cooling water use.

(Ord. of 8-8-1972, § 8.5)

**Sec. 90-966. Noise.**

(a) No activity in an M-1 industrial district shall produce a sound level outside the property boundary that exceeds the following sound levels, when measured by a sound level meter and associated octave band filter:

Octave Band Frequency (Cycles Per Second)	Sound Level Decibels
0--75	79
75--150	74
150--300	66
300--600	59
600--1,200	53
1,200--2,400	47
2,400--4,800	41
Above 4,800	39

(b) No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

Octave Band Frequency (Cycles Per Second)	Sound Level Decibels
0--75	73
75--150	67
150--300	59
300--600	52
600--1,200	46
1,200--2,400	40
2,400--4,800	34
Above 4,800	32

(c) All noise shall be muffled or otherwise controlled so as not to become objectionable due to intermittence, duration, beat frequency, impulse character, period character or shrillness.

(Ord. of 8-8-1972, § 8.6)

**Sec. 90-967. Odors.**

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside the premises of such activity. The guide for determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual, 1960, prepared by the Manufacturing Chemists' Association, Inc., Washington, D.C.

(Ord. of 8-8-1972, § 8.7)

**Sec. 90-968. Radioactivity and electrical disturbances.**

No activity shall emit radioactivity or electrical disturbances outside the premises of such activity that are dangerous or adversely affect the use of neighboring premises, including radio and television receiver operation.

(Ord. of 8-8-1972, § 8.8)

**Sec. 90-969. Vibrations.**

No activity in any district, except the M-1 industrial district, shall emit vibrations which are discernible without instruments outside the premises of such activity. No activity in an M-1 industrial district shall emit vibrations which exceed the following displacement, measured with a three-component measuring system:

Frequency (Cycles Per Second)	Outside the Premises
0--10	0.0020
10--20	0.0010
20--30	0.0006
30--40	0.0004
40--50	0.0003
50 and over	0.0002

(Ord. of 8-8-1972, § 8.9)

**Secs. 90-970--90-1000. Reserved.**

**ARTICLE VII.**

**SUPPLEMENTAL REGULATIONS**

**Sec. 90-1001. Site regulations.**

- (a) *Structures other than buildings.*
  - (1) *Structures less than six inches in height.* Structures not classified as buildings and less than six inches in height from the surface of the ground shall not be subject to the setback, offset, building size or open space requirements of this chapter, except as may otherwise be specifically provided.
  - (2) *Structures six inches or more in height.* Structures not classified as buildings and six inches or more in height from the surface of the ground shall be subject to the setback, offset, height and open space requirements of this chapter, except as may otherwise be specifically provided, such as in subsection (b)(6)d. of this section.
- (b) *Building location.*
  - (1) *Placement on lot required.* Every building erected, structurally altered or relocated after the effective date of the ordinance from which this chapter is derived shall be placed on a lot as defined in section 90-9.
  - (2) *One principal residence building per lot; exception.* Except as provided in the district regulations for attached single-family dwellings, apartments,

mobile home projects or planned development projects, only one principal residence building shall be permitted on a lot; provided, however, that the plan commission may grant an exception to permit more than one principal building on a lot where such grant would not be contrary to the spirit or intent of this chapter or to the regulations applicable to the specific district, and, provided that a sufficient lot area is provided and the buildings are located so as to individually meet the setback, offset, lot size, density and open space requirements of the district in which the buildings are located.

- (3) *Street access required.* No lot shall be created or any building placed on a lot after the effective date of the ordinance from which this chapter is derived which does not abut on a public street or approved way, except as provided in subsection (b)(4) of this section.
- (4) *Private street or way.* Subject to the approval of the plan commission, a building may be permitted on a lot which does not abut on a public street or approved way, provided such lot has access, by permanent easement, to a public street or approved way; such easement is approved by the plan commission and recorded to show no liability of the village to maintain such easement; and placement of the building does not conflict with plans for the future development of streets in the area, except that, where a future street is possible, the plan commission may require a street reservation.
- (5) *Location restricted.* No building shall be erected, structurally altered or relocated on a lot after the effective date of the ordinance from which this chapter is derived, except in conformity with the locational requirements set forth in subsections (b)(6)--(8) of this section as specified for the district in which the building is located.
- (6) *Setbacks.* The proximity of a building to a public street or way is regulated by the following setback provisions:
  - a. Base setback lines are established parallel to the centerline of all existing and proposed public streets and ways, as follows:
    - 1. On all public streets as designated by the highway plan or official map adopted by the village board after recommendation by the plan commission, or upon the county highway width map or highway plans duly adopted by the county or the state, and certified to the village as adopted, the base setback line shall be located at a distance from the centerline of the street equal to one-half the width of the highway as designated.

2. In the case of frontage streets along principal traffic arteries, the base setback line shall be located on the property line as established by the frontage street.
  3. Where realignment of an existing street is shown on the plan or a new street is proposed, the location of the base setback line shall be established by the village board as needed by zoning permit applications.
- b. No building shall be erected, structurally altered or relocated after the effective date of the ordinance from which this chapter is derived so that it is closer to the base setback line than the setback distance specified by the regulations of the district in which the building is located, except that, in the case of a new residential building to be located adjacent to one or more existing residential buildings which are placed farther back than the required setback, the following increased setbacks shall apply:
1. Where only one adjacent residence with an increased setback is within 250 feet or two lots, whichever is less, of the proposed residence, the average between the required setback and that of the existing residence shall be applied.
  2. Where the nearest existing residences on both sides of a proposed residence and within 250 feet or two lots thereof, whichever is less, have increased setbacks, the average of the adjacent increased setbacks shall apply.
- c. The setback as required in subsection (b)(6)b. of this section shall be measured from the nearest enclosed or roofed portion of a building; provided, however, that the first two feet of an overhanging eave and gutter shall not be included, nor the first six feet of uncovered stairs, landings and fire escapes, provided they do not extend closer than three feet to the lot line.
- d. The only structures permitted within the setback area shall be necessary highway and traffic signs, public utility lines and poles, telephone booths, walls and fences as regulated in this subsection, rural mailboxes, signs as permitted under the district regulations, structures other than buildings as regulated in this this subsection, temporary structures, outdoor lighting installations and unenclosed canopies for lighting and rain protection in conjunction with such uses as automobile sales lots or drive-in commercial facilities, provided that such canopy structures are approved by the plan commission.

1. Walks, drives, paved terraces and purely decorative garden accessories, such as fountains, pools, statuary, flagpoles, etc., where subject to permanent structure classification, shall be permitted in setback and side yard areas, but not closer than two feet to an abutting property line, except walks, drives and paved terraces may abut the street or alley line.
2. Fences, walls, clothes poles, children's play apparatuses and architectural screening devices, where anchored to supports imbedded in the ground, shall be considered permanent structures and shall be subject to the following:
  - i. Fences, walls and architectural screening devices, berms of the combination thereof greater than eight feet in height is prohibited any place on the lot in any district, except in the street yard area where such structures and/or berms up to four feet in total height may be permitted to within two feet of the public road right-of-way of village approved private drive. The finished or more aesthetically pleasing side of all fences shall face the adjacent neighbor, public right-of-way or village approved private drive. No fence(s) are permitted within a vision triangle setback area. (see section 90-1001(6)(e))
  - ii. Except in the industrial and B-3 districts, any such structure in excess of six feet in height may be permitted, provided, such structure conforms to the height, offset and setback requirements of the district in which it is located. In the industrial district, chainlink fences up to eight feet in height may be permitted on side and rear lot lines and to within five feet of street lot lines. Other types of fences and structures in excess of eight feet in height shall conform to the height, offset and setback requirements of the district in which they are located.
  - iii. Retaining walls may be permitted any place on the lot, provided that no wall shall be closer than three feet to the base setback line.
- e. Vision setback lines at the intersections of public streets and of a street with a railroad or alley, where the grade is not separated, are established, as follows:

1. Across each sector between the intersection of a street with a railroad a vision setback line shall be established by a straight line connecting points on the base setback line and the railroad right-of-way line, which points are located 20 feet on a spur and 120 feet on any other railroad line from the intersection of the base setback line and the railroad right-of-way line.
  2. Across each sector between intersecting streets, one or more of which has a designated width of 100 feet or greater, a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines, which points are located 30 feet from the intersection of such base setback lines.
  3. Across each sector between any other intersecting street, a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines, which points are located 20 feet from the intersection of such base setback lines.
  4. Across each sector between an alley and intersecting street, a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines, which points are located ten feet from the intersection of such base setback lines.
- f. In the vision setback area, no structure of any kind shall be permitted which exceeds a height of 2 1/2 feet above the elevation of the center of the intersection, except for necessary highway and traffic signs, public utility lines and open fences through which there is clear vision; nor shall any plant material or natural growth be permitted which obscures safe vision of the approaches to the intersection.
- g. On corner lots of record, as of the date of the ordinance from which this chapter is derived, the effect of the setback regulations shall not reduce the buildable width of such corner lot to less than 30 feet.
- h. The requirements for vision setback shall not apply within an approved business subdivision within the general business park district.

(7) *Side yard and rear yard offsets.* The proximity of any portion of a building to any other lot line, other than a street line, is regulated by the following side yard and rear yard provisions:

- a. No building shall be erected, structurally altered or relocated after the effective date of the ordinance from which this chapter is derived so that any roofed or enclosed portion thereof is closer to any lot line than the side yard or rear yard distance specified by the regulations of this chapter for the district in which it is located, except as follows:
  1. Where a lot abuts a district boundary line, the side yard from such line in the district of less restrictive side yard and shall not be less than that required for the district of more restrictive side yard.
  2. Individual districts may establish differing side and rear yard requirements for accessory structures than for principal structures, and for the driveway side of a lot than for the other sides. The building inspector may require a driveway side yard where, in the building inspector's judgment, a present or future owner is likely to install a driveway, and the building inspector may deny permits for driveways into side yards which are less than the driveway side yard requirement.
  3. In the case of any lot of record which has a width less than that required by the district in which it is located, the side yard from a side lot line may be reduced proportionately to the ratio between the actual width and the required width; provided, however, that no side yard shall, in any case, be less than one-half the required side yard, except that the side and rear yards for detached garages may be reduced to three feet.
  4. In the case of single-family attached, multiple-family, commercial or industrial use structures, two or more buildings on adjoining lots may be erected with common or directly adjoining walls, provided the requirements of the state industrial code relative to such construction are complied with and, provided that, at both ends of such row type buildings, the applicable side yard requirements shall be complied with.
- b. The side and rear yards shall be measured from the roofed or enclosed portion of a building, including overhanging eaves,

except that the first two feet of an overhanging eave/gutter shall not be included where the yard requirement exceeds five feet.

- c. In all districts which allow common wall construction or do not require an offset, all buildings which are erected, structurally altered or relocated after the effective date of the ordinance from which this chapter is derived, having any rooms required by chapter 14 of this Code to have light and ventilation by windows opening directly to the outer air, shall provide courts, as follows:

1. *Outer courts.* The width of any required outer court shall not be less than the height of any opposing wall forming such court. The depth of an outer court formed by walls on three sides shall not be greater than 1 1/2 times the width.
2. *Inner courts.* The least dimension of an inner court shall not be less than the full height of the walls enclosing such court.

- (8) *Accessory building location.* No accessory buildings shall be erected, structurally altered or relocated so that any roofed or enclosed portion thereof is closer than ten feet to the principal building on the lot, unless it is attached thereto with a wall or roof.

(c) *Height regulations.*

- (1) *Maximum height restricted.* In any district, no building or structure shall be erected or structurally altered after the effective date of the ordinance from which this chapter is derived to a height in excess of the height specified in this chapter by the regulations for that district.
- (2) *Exceptions.* The following shall be excepted from the height regulations of all districts:
  - a. Chimneys, flues and electrical or telephone and telegraph transmission and distribution structures.
  - b. Subject to approval of the plan commission, which shall be guided by the standards of section 90-1005, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts, aerials and necessary mechanical appurtenances.
- (3) *Increase permitted.* Subject to approval of the board of zoning appeals, which shall be guided by the standards of section 90-1005, the maximum

height in commercial, industrial and other nonresidential districts, as permitted under this chapter, may be increased, provided, the required setbacks and offsets affecting the portion of the structure having increased height shall be increased by one foot for each foot in excess of the height limit in the district.

(d) *Building size and floor area regulations.*

- (1) *Minimum required.* The portions of buildings intended for residential use shall provide a minimum floor area, as specified in this chapter by the district regulations in which such buildings are located, and either a minimum basement and utility area or, in lieu thereof, increased floor area, if required by the district regulations, and such minimum residential floor area shall be based upon either the number of bedrooms or total rooms exclusive of bathrooms. For the purpose of this subsection, the term "rooms" shall have the meaning as defined in chapter 14 of this Code.
- (2) *Maximum permitted floor area ratio.* The maximum total floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio (FAR) as specified in this chapter by the regulations for the district in which such building is located.
- (3) *Measurement.* Floor area shall be measured at each level from outside of wall to outside of wall, but, for the purpose of determining minimum required floor area, shall not include any area having an average height of less than seven feet, basements, attached garages, open porches, attics, public hallways or storage areas. Basements and attics shall not be included in determining permitted FAR. For the purposes of minimum and maximum floor area regulations, in the case of floor levels built into a hillside, the floor area subject to regulation shall be the area extending back in depth one-half the length of the exposed wall at grade.
- (4) *Increase permitted.* The maximum permitted FAR may be increased as permitted by subsection (g) of this section.

(e) *Lot size.*

- (1) *Minimums required.* No lot shall be platted of less area or width than specified in this chapter by the district regulations in which the lot is located.
- (2) *Area measurement.* For the purpose of this chapter, the lot area shall be measured from the base setback line and shall be exclusive of the area between the base setback line and the existing property line ultimately to be included in the street.

- (3) *Width measurement.* The district regulations may provide for up to three varying applications to determine required lot width, as follows:
    - a. *Interior, rectangle shaped lots.* The width shall be measured at the rear of the required setback area.
    - b. *Corner lots.* The width shall be measured at the rear of the required setback area on the narrowest street side, and the district regulations may also provide that the lot width be up to 20 percent greater than for an interior lot in the same district.
    - c. *Interior irregular shaped lots, such as pie-shaped or L-shaped.* The width specified by the district regulations for rectangular interior lots shall constitute the required minimum average width of irregular interior lots, measured at the point of average depth as illustrated on drawings supplied by the village. Such lots shall have a minimum frontage on a street or approved way of at least 33 feet.
  - (4) *Reduction.* No lot area shall be reduced by any means so as to create a lot of less than the required size or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the district in which such lot is located.
- (f) *Residential density.*
  - (1) *Purpose of control.* The regulatory techniques controlling the distribution of population throughout the community are intended to achieve the desired pattern as set forth in plans adopted by the village and to achieve a practical, economic and functional relationship between the residential use of land and its consequent impact upon traffic circulation, sewage disposal, school facilities and other service demands.
  - (2) *Method of control.* In single-family detached developments, the density is established by the minimum required lot size. In single-family attached or multiple-family developments, no minimum lot size is established, but the allowable density is established by a required ratio of lot area to each dwelling unit. In planned residential development projects, the density is established by a special factor giving the number of dwelling units permitted per acre, based on the underlying zoning or adopted land use plan.
- (g) *Environmental enhancement incentive.*
  - (1) *Purpose.* In order to encourage the inclusion of site amenities in business and multiple-family developments, incentives are offered in the form of increased density or FAR allowances, where, in the opinion of the plan

commission, such increase would be justified by the enhancement to the environment and would not adversely affect the value or enjoyment of surrounding property, the provision of municipal services or the safe, efficient flow of traffic on nearby streets.

- (2) *Requests.* The granting of increases in either allowable density or FAR may be made by the plan commission, upon submittal of a request for such allowance, accompanied by appropriate building and site plans, and shall be based upon the following table of maximum allowable incentive increases. The plan commission shall use its discretion as to whether the character and quality of the proposed enhancement justifies the maximum increase or a portion thereof.

Type of Environmental Enhancement	Incentive Business Increase in FAR	Incentive Multiple-Family Increase in Density
Plazas, malls and other pedestrian promenades or gathering places, provided, they are specifically designed and appropriately developed to enhance the pleasure and comfort of pedestrians and the aesthetic appearance of the development.	Two square feet of additional floor area for each square foot of plaza, mall, etc.	One dwelling unit for each 500 square feet of plaza, mall, etc.
Recreational facilities intended for the free use of residents or patrons, such as children's playgrounds, swimming pools, tennis courts, wading pools, etc.	Two square feet of additional floor area for each square foot of recreational area.	One dwelling unit for each 250 square feet of pool area or 500 square feet of other recreational area.
Underground parking or underground truck service area.	One square foot of additional floor area for each square foot of underground parking or service area.	One dwelling unit for every three underground parking spaces.
Special landscape treatment for features such as outdoor sculptures, pools, fountains, flower beds, etc.	One square foot of additional floor area for each square foot of landscaped area.	Not to exceed ten percent of the base allowable density.

- (3) The enforcement by the village of the maintenance of any environmental amenities included in the original approval shall be assisted by mapping an indication on the zoning map and recording the existence of such special conditions with the county register of deeds as provided under section 90-105.

(h) *Open space.*

- (1) *Minimum required.* No building intended, partially or entirely, for residential use, shall be erected, structurally altered or relocated on a lot after the effective date of the ordinance from which this chapter is derived

unless there is provided usable open area as specified in this chapter by the regulations for that district.

- (2) *Measurement.* To be considered usable, such open area shall be readily accessible at or near ground level and of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, play space, drying yard, garden, etc., but shall not include parking areas and drives. (See the definition of the term "open space" in section 90-9 for the consideration of roof terraces.)
- (3) *Overlapping.* No part of the open space provided for any building shall be included as part of the open space required for another building, except as provided for residential clusters and planned development projects.

(Ord. of 8-8-1972, § 2.4; Ord. No. 9-2007, 12-10-2007)

### **Sec. 90-1002. Engineering regulations.**

(a) *Establishment of grades.* Every building erected, structurally altered or relocated after the effective date of the ordinance from which this chapter is derived shall be at a grade approved by the building inspector as being in satisfactory relationship with the established street and lot grades or with the existing street grade where none is established, with particular consideration for proper drainage and safe vehicular access.

(b) *Drainage.*

- (1) *Adequate drainage required.* No principal building shall be erected, structurally altered or relocated on land which is subject to flooding or to a seasonal or permanent high groundwater level, except as follows:
  - a. Where the land falls within the jurisdiction of the county floodplain-shoreland ordinance, refer to such ordinance.
  - b. Where the land falls within a distance other than the W-F (wetland-floodplain) district, the construction, alteration or relocation of a principal building shall only be permitted where the first floor grade will be at least two feet above the highest anticipated seasonal groundwater level and at least two feet above the elevation of the 100-year recurrent interval flood, or where such data is not known, at least three feet above the maximum flood of record, provided that, in the case of flooding, the yard grade will be raised to a level at least one foot above the 100-year recurrent flood level or two feet above the maximum flood of record for a distance of 25 feet from the structure.

- (2) *Interference.* The damming, filling, relocating or otherwise interfering with the natural flow of surface water in a natural drainage course or the intended flow in an approved platted subdivision shall not be permitted, except with the approval of the county and state agencies having jurisdiction and the village drainage commission, upon recommendation of the plan commission.

(c) *Sanitation and water supply.* Zoning of land for urban development and the subdividing thereof for human occupancy or use shall only be recommended by the village plan commission and adopted by the village board after each is assured that the development will be served, by the time of development, with a safe individual or common water supply, and adequate means for disposal of wastewater under terms complying with appropriate state, county and village sanitary regulations.

(d) *Preservation of topography.* In order to protect the property owner from possible damage due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than two horizontal to one vertical, within a distance of 20 feet from the property line, except where retaining walls are built pursuant to section 90-1001(b) or with the written consent of the abutting property owners and the approval of the plan commission, or which would alter the existing drainage or topography in any way so as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved and all slopes shall be protected against erosion.  
(Ord. of 8-8-1972, § 2.5)

### **Sec. 90-1003. Soil regulations.**

(a) Certain soil types lying in the village, as shown on the operation soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service, for the Southeastern Wisconsin Regional Planning Commission, which are on file with the village and have been published as the Soil Survey, Racine County, U.S. Department of Agriculture, Soil Conservation Service, U.S. Government Printing Office, Washington D.C., 1970, and on Table 8, Soils of Southeastern Wisconsin. SEWRPC Planning Report No. 8, 1966, have severe or very severe limitations for soil absorption sewage disposal systems, because of one or more of the following reasons:

- (1) High or fluctuating water table;
- (2) Flooding;
- (3) Groundwater contamination;
- (4) Silting;
- (5) Slow permeability;

(6) Steep slopes; or

(7) Proximity to bedrock.

(b) Soil types described in the publications set forth in subsection (a) of this section and designated by the following numbers shall not be used for soil absorption sewage disposal facilities:

4	38	67	175	233Z	332	416
5	40R	76	176	234	332V	417
5W	41	76V	178	250	332Z	419
7	42	76Y	180	250Y	3361	450
7W	42Y	76Z	181	250Z	338	451
10	45	77	181Z	251	339	451W
11	46	78	203	251Y	340	452
11W	48	80	203Y	251Y	340	452
26	49	80V	203Z	287	346Y	454
27	51	80Y	212	298	346Z	455
27Y	52	80Z	213	299	368	456
28	54	87	216	2351	369	457
29	59	109	217	326	371	459
29Z	59Z	109Z	218	326Z	386	460
35	60	124	231	327	386Y	461
36	60Z	126	233	328	386Z	
37	63	174	233Y	330	398	

(c) Soil types described in the publications set forth in subsection (a) of this section and designated by the following numbers, and any soils the slopes of which exceed 12 percent, shall not be used for soil absorption sewage effluent disposal facilities unless the village engineer finds that such severe limitations have been overcome by elimination or avoidance of bedrock, provision of larger absorption areas, protection from runoff, terracing and reduction of steep slopes or other corrective measures:

16	40	155Z	324Z
21	44	172Z	325
22	72Z	294	331
24	73Z	297	333Z
31	119Z	297Y	335Z
39	120Z	323Y	336

(d) The applicant desiring to use land for on-site soil absorption sewage disposal facilities on a site presumably having very severe or severe soil limitations shall have an opportunity to present evidence contesting such findings, if he so desires, to the zoning board of appeals, by having additional on-site investigations made, including percolation tests; obtaining the certification of a soil technician or soil engineer that specific areas lying within the soil are unsuitable for the proposed soil absorption sewage disposal facility; and meet the requirements of Wisconsin Administrative Code. In addition, the zoning board of appeals shall find that the proposed corrective measures have overcome the severe soil limitations.

(e) The zoning board of appeals may request the county soil and water conservation district to provide expert assistance from regional, state or federal agencies which are assisting such district under a memorandum of understanding.  
(Ord. of 8-8-1972, § 2.6)

#### **Sec. 90-1004. Airport safety zone.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Elevation* means height above sea level, as established by the 1929 datum of the U.S. Geological Service.

*Primary surface* means the airport runway and defined adjacent space within which no structures, including those related to airport operations, other than navigational aids, are permitted.

(b) *Boundaries of airport runway zones.* The regulations of this section shall apply within the following described areas:

- (1) *Sylvania Airport Runway No. 260 degrees.* From the displaced threshold line of such runway extending northeasterly along the extended centerline of such runway for a distance of 20,000 feet, 500 feet wide on either side of the extended centerline.
- (2) *Horlick-Racine Airport Runway Nos. 040 and 320 degrees.* From the approach surface point of origin lines 200 feet outbound of the displaced threshold lines on such runways, extending southwesterly for Runway No. 040 and southeasterly for Runway No. 320 along the extended centerline of such runways for approximately 10,000 feet, more particularly described as follows:
  - a. *Runway No. 040 primary surface.* Commence at a point on the section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 4 North, Range 23 East, which point is located south 88°07'45", west 35.56 feet from the southeast corner of such Section 31; thence run south 35°25'36", west 329.76 feet; thence north 54°34'24", west 432.92 feet to a point on the south line of such Section 31; thence north 88°07'45", east along such section line 544.21 feet to the point of beginning.
  - b. *Approach surface No. 4.* Commence at a point on the section line between Section 31, Township 4 North, Range 23 East and Section

6, Township 3 North, Range 23 East, located south  $88^{\circ}07'45''$ , west 35.56 feet from the southeast corner of such Section 31; thence run south  $35^{\circ}25'36''$ , west 329.76 feet to the point of beginning of this description at elevation 667.20; thence run south  $26^{\circ}53'45''$ , west 5,157.06 feet to a point at elevation 817.20; thence south  $26^{\circ}53'45''$ , west 4,954.82 feet to a point at elevation 817.20; thence north  $54^{\circ}34'24''$ , west 4,000.00 feet to a point at elevation 817.20; thence north  $43^{\circ}57'27''$ , east 4,954.82 feet to a point at elevation 817.20; thence continue north  $43^{\circ}57'27''$ , east 5,157.06 feet to a point at elevation 667.20 feet; thence south  $54^{\circ}34'24''$ , east 1,000.00 feet to the point of beginning.

- c. *Approach surface No. 32.* Commence at a point on the north-south quarter line of Section 32, Township 4 North, Range 23 East, located north  $00^{\circ}47'06''$ , west 194.51 feet from the south quarter corner of such section; thence run north  $53^{\circ}53'55''$ , west 361.46 feet to the point of beginning of this description at elevation 655.06; thence run south  $53^{\circ}53'55''$ , east 3,768.70 feet to a point at elevation 805.06; thence continue south  $53^{\circ}53'55''$ , east 6,281.17 feet to a point at elevation 805.06; thence south  $41^{\circ}48'43''$ , west 2,500.00 feet to a point at elevation 805.06; thence north  $42^{\circ}28'39''$ , west 6,281.17 feet to a point at elevation 805.06; thence continue north  $42^{\circ}28'39''$ , west 3,768.70 feet to a point at elevation 655.06; thence north  $41^{\circ}48'43''$ , east 500.00 feet to the point of beginning.
- d. *Transition surface A.* Commence at a point on the section line between Section 31, Township 4 North, Range 23 East and Section 6, Township 3 North, Range 23 East, located south  $88^{\circ}07'45''$ , west 35.56 feet from the southeast corner of Section 31; thence run south  $35^{\circ}25'36''$ , west 329.76 feet to the point of beginning of this description at elevation 667.20; thence run south  $26^{\circ}53'45''$ , west 5,157.06 feet to a point at elevation 817.20; thence north  $38^{\circ}37'31''$ , east 5,107.96 feet to a point at elevation 817.20; thence north  $35^{\circ}25'36''$ , east 613.08 feet to a point at elevation 809.48; thence south  $48^{\circ}11'17''$ , east 437.08 feet to a point at elevation 805.06; thence south  $58^{\circ}23'32''$ , east 3,810.27 feet to a point at elevation 805.06; thence north  $42^{\circ}28'39''$ , west 3,768.70 feet to a point at elevation 655.06; thence north  $48^{\circ}11'17''$ , west 1,611.14 feet to a point on the primary surface; thence south  $35^{\circ}25'36''$ , west 1,787.93 feet to the point of beginning.
- e. *Transition surface B.* Commence at a point on the east line of Section 31, Township 4 North, Range 23 East, located north  $01^{\circ}21'46''$ , west 1,953.40 feet from the southeast corner of such Section 31; thence run north  $48^{\circ}11'17''$ , west 1,449.11 feet to the

point of beginning of this description at elevation 668.61; thence south  $48^{\circ}11'17''$ , east 1,591.55 feet to a point on the primary surface; thence south  $35^{\circ}25'36''$ , west 1,899.83 feet to a point at elevation 667.20; thence south  $43^{\circ}57'27''$ , west 5,157.96 feet to a point at elevation 817.20; thence north  $35^{\circ}25'36''$ , east 960.78 feet to a point at elevation 817.96; thence north  $48^{\circ}11'17''$ , west 652.50 feet to a point at elevation 818.61; thence north  $37^{\circ}59'03''$ , west 3,810.27 feet to a point at elevation 818.61; thence south  $53^{\circ}53'55''$ , east 3,768.70 feet to the point of beginning.

(c) *Maximum height established.*

- (1) Within the areas described in subsection (b) of this section, no building or other structure shall be erected, altered or maintained, no mobile object shall be placed or operated and no vegetation shall be allowed to grow which penetrates or intrudes into such protected approach surfaces for such runway zones in the following distance to height ratios, measured from the displaced threshold line on the runways at the elevation established in subsection (b) of this section:
  - a. *Sylvania Runway No. 260 degrees.* Twenty-five to one ratio, but in no case may a height of 150 feet be exceeded.
  - b. *Horlick-Racine Runway No. 040 degrees.* Thirty-four to one ratio for the first 5,157 feet; thereafter, the protected surface remains level at 150 feet above the runway elevation; and on either side of the runway zone, the transition surfaces are established at a seven to one ratio.
  - c. *Horlick-Racine Runway No. 320 degrees.* Twenty to one ratio for the first 3,750 feet; thereafter, the protected surface remains level at 150 feet above the runway elevation; and on either side of the runway zone, the transition surfaces are established at a seven to one ratio.
  - d. *Horlick-Racine Runway No. 040 degrees primary surface:* The protected surface at any point is the same as the elevation of the runway.
- (2) The height limitations set forth in subsection (c)(1) of this section shall not restrict erection and maintenance of airport navigational aids and, in the case of subsections (c)(1)a.--c. of this section, shall not restrict the first 50 feet of height above the ground surface as it existed at the adoption of the ordinance from which this chapter is derived, as recorded on topographic maps provided by the county at a scale of one inch equals 200 feet, with contour intervals of two feet, and as supplemented by a registered land

surveyor to show the heights of pertinent structures and vegetation thereon. Such maps shall be adopted as part of this section, as provided in section 90-175, and the outlines of the protected surfaces shall be added to the official zoning maps provided for in section 90-175.

- (3) It shall be the duty of the airport owners to report to the zoning administrator when any tree, not excepted by this section, penetrates any protected surface. Upon order of the zoning administrator, the airport owners shall cause the penetrating tree to be trimmed to an elevation five feet below the elevation of the protected surface and shall pay the costs of such trimming. The owner of the penetrating tree is required to grant to the employees and/or agents of the airport owners the rights of access necessary to perform such trimming.

(d) *Control of uses.* Notwithstanding the regulations of the various use districts of this chapter, no building or land located within the areas described in subsection (b) of this section shall be used in such a way that the use would reasonably be expected to constitute a hazard to the safe operation of aircraft by reason of interfering with aircraft navigational signals or electronic communication, or of making it difficult for pilots to distinguish between airport runway lights and others, or result in glare in the eyes of pilots using such airports, or impair pilot visibility by emitting smoke, gas, dust or creating a bird-strike hazard, such as occurs in sanitary landfill sites, coal piles, ponds or storm retention basins, that can be expected to attract waterfowl. This subsection shall not be interpreted to prohibit tilling of soil for usual farming operations, nor the use of land for storm retention basins designed to hold water for a period of less than four days.

(e) *Population density prohibited.* Notwithstanding the regulations of the various use districts of this chapter, no church, school, assembly hall, multiple-family residence exceeding two units per structure, hotel or motel, or other type of building or development where people normally congregate in large numbers shall be permitted within the first 3,000 feet of the safety zone described in subsection (b) of this section measured from the outer edge of the primary surface.

(f) *Variance notice.* When a person seeks a variance to the provisions of this section under the terms of article II, division IV of this chapter, in addition to all the requirements of section 90-136, a notice of the hearing shall be mailed to the:

- (1) Federal Aviation Administration, Airports District Office, 6301 34th Avenue South, Minneapolis, Minnesota 55450;
- (2) Manager, Racine Commercial Airport Corporation, 3000 Golf Avenue, Racine, Wisconsin 53404; and
- (3) Sylvania Airport, 2624 South Sylvania Avenue, Sturtevant, Wisconsin 53177.

(Ord. of 8-8-1972, § 2.7)

**Sec. 90-1005. Approval of building, site and operational plans.**

(a) *Where required.* In the case of certain users, the character of which could have substantial adverse impact on surrounding property values or public highway facilities by reason of the arrangement of structures and related uses on the land, including the total appearance of such arrangement or by arrangement of access from public streets to off-street parking and loading facilities, such uses may be required as a qualifying condition to their permissibility to submit their proposed building site and operational plans for approval by the plan commission.

(b) *Use by right not infringed.* Such required approval shall be limited solely to reasonable compliance with design, locational and operational requirements, and shall not involve the basic permissibility of the use where such use is permitted by a use by right.

(c) *Criteria.* In determining the acceptability of the building, site or operational plans, the plan commission shall take the following factors into consideration, as well as any other factors they deem related:

- (1) The general design and appearance of any structures in terms of generally accepted standards of good taste, and particularly in terms of the relationship and effect upon surrounding properties.
- (2) The relationship of structures and uses to each other and to the site, with particular consideration of traffic flow, access, screening of parking and storage areas and general appearance.
- (3) The character of the operation in terms of its impact upon traffic facilities, sewage disposal, water supply and environmental character, with particular consideration of the control of any possible noise, dust, odor or other undesirable operating characteristic, including compliance with the performance standards set forth in article VI of this chapter.

(d) *Form of submittal.* Before issuing a building permit or occupancy and zoning use permit, the building inspector shall submit the necessary building, site and operational plans to the plan commission for their consideration. Such plans shall be in reasonable detail to enable the plan commission to properly evaluate them, and shall specifically include the following:

- (1) A site plan of the property, accurately dimensioned, showing the location of all existing and proposed structures and use areas.
- (2) General building plans, including either elevations or perspective drawings, showing the exterior appearance.
- (3) A statement describing the basic operational characteristics of the proposed use.

(Ord. of 8-8-1972, § 2.8)

## **Sec. 90-1006. Architectural control.**

(a) *Purpose.* In order that the physical environment of the village is developed in a way that will provide the maximum degree of aesthetic satisfaction through architectural and natural beauty and harmony, and thereby provide most satisfyingly for the well-being and contentment of its inhabitants, as well as for greater economic stability through preservation and enhancement of property values, it is deemed necessary to exercise regulation over the architectural appearance and construction of buildings erected, remodeled or in any way placed within the village. Such regulation, however, is not intended to impose a pattern of regimented conformity to any specific architectural style or taste established by the village board, a review board or the existing residents of any area, but is intended, solely, to prevent any development which would damage the existing or potential beauty and character of the neighborhood, reduce its desirability, depreciate surrounding property values or in any other way have a substantially adverse effect upon the neighborhood.

(b) *Approval of building plans required.* Prior to the issuance of a building permit for new construction or relocation of a structure into or within the village after the effective date of the ordinance from which this chapter is derived, building plans, including accurate elevations of each facade, showing sufficient detailing of exterior materials or, in the case of relocations, photographs of each facade, shall be submitted to the building inspector for possible referral to the plan commission to enable the plan commission to determine whether the proposed building is architecturally acceptable on the proposed site. The referral of such materials shall be mandatory for all public, institutional, commercial, industrial and multiple-family residential buildings, but the referral of single-family, two-family or agricultural use buildings to the plan commission shall be at the discretion of the building inspector.

(c) *Plan commission decision criteria.* The plan commission, in making its decision, shall be governed by the following criteria:

- (1) No building, the design or exterior appearance of which is of such unorthodox or abnormal character in relation to the surroundings as to be unsightly or offensive to generally accepted taste, shall be permitted.
- (2) No individual building, the design or exterior appearance of which is so identical with adjoining buildings as to create excessive monotony and drabness, shall be permitted. In applying this standard to attached or row buildings, apartment groupings or commercial and industrial centers, the overall composition and aesthetic effect shall be considered.
- (3) No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades, and which does not present an attractive appearance to the public and surrounding properties.
- (4) No building shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural

beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area, or which would unreasonably adversely affect the beauty and general enjoyment of existing residences on adjoining properties.

(d) *Time limit of decision.* The plan commission shall meet and make its decision within three weeks for a nonresidential building and two weeks for a residential building, which period shall begin the day that the building inspector notifies, in writing, the member of the plan commission selected by the plan commission to call meetings.  
(Ord. of 8-8-1972, § 2.9)

#### **Sec. 90-1007. Required off-street vehicle parking.**

Off-street vehicle parking spaces shall be provided for buildings and uses as specified in section 90-1010. Such parking shall be reasonably adjacent to the use or building being served; be intended specifically to serve the residents, patrons or employees of such use or building; and the required number of spaces must be demonstrably usable and accessible for such purpose.  
(Ord. of 8-8-1972, § 5.1)

**Cross References:** Streets, sidewalks and other public places, ch. 70.

#### **Sec. 90-1008. Applicability of parking space requirements to existing uses.**

The provision of parking spaces shall not be required for legally existing uses as of the date of the ordinance from which this chapter is derived, but shall be required for any expansion of such use by the addition of new primary floor area or other partial expansion of the building or use generating new parking demand.  
(Ord. of 8-8-1972, § 5.2)

#### **Sec. 90-1009. Interpretation of parking requirements.**

In any case where there is a question as to the parking requirements for a use or where such requirements are not specifically enumerated, the building inspector shall bring such case to the plan commission, which shall have the authority to determine the appropriate application of the parking requirements to the specific situation.  
(Ord. of 8-8-1972, § 5.3)

#### **Sec. 90-1010. Parking space requirements enumerated.**

Parking spaces shall be required as follows:

Use	Parking Requirements
Single-family detached residences, including mobile homes	Two spaces per dwelling unit.
Public housing, elderly	One space for every six dwellings.

Public housing, other	One space for every one dwelling.
All other residential uses (two-family, townhouse and multiple-family)	Two spaces per dwelling unit.
Public assembly facilities providing for seated audiences (churches, theaters, auditoriums, etc.)	One space for every five seats.
Hotels, motels and tourist homes	One space for every rental unit, plus one space for every three employees.
Elementary and secondary schools	Two spaces for every classroom or auditorium requirement, whichever is greater.
Funeral homes	One space for each four seats.
Colleges, universities, vocational or other adult schools	One space for every three students of maximum peak hour capacity.
Hospitals	One space for every three beds, plus one space for every two employees.
Nursing, convalescent, rest and old age homes	One space for every five beds, plus one space for every two employees.
Clinic, dental	Three spaces for each doctor.
Clinic, medical	Five spaces for each doctor.
Industrial uses	One space for every two employees.
Office buildings	One space for every 300 square feet of primary floor area (PFA).
Retail stores and shopping centers	One space for every 150 square feet of PFA.
Roominghouses, boardinghouses, dormitories and clubs with sleeping rooms	One space for every four beds.
Customer service establishments (financial institutions, barbershops, beauty shops, appliance repair, etc.)	One space for every 200 square feet of PFA.
Restaurants, taverns, supper clubs and bars	One space for every 100 square feet of PFA.
Commercial recreation, indoor (other than theaters)	One space for every 150 square feet of PFA.
Outdoor recreation (golf courses, driving ranges, campgrounds, etc.)	See section 90-1010.

(Ord. of 8-8-1972, § 5.4)

**Sec. 90-1011. General requirements for off-street parking and loading areas.**

General requirements for off-street parking and loading areas shall be as follows:

- (1) *Surfacing.* Any active off-street parking area, other than as provided for a residence having a capacity for more than four vehicles, shall be asphalt, pavers or concrete and maintained in a reasonably dustless condition. The plan commission, during initial site plan or conditional use review, may specify an active commercial or industrial parking, loading or storage construction schedule not to exceed two years from issuance of a certificate of occupancy.
- (2) *Screening.* Any off-street parking area, other than that provided for a residence which abuts or faces a residence within 50 feet of the residence district line, shall provide a planting screen, landscaped fence or wall, at least three feet in height, along the side abutting or fronting on a residential district. Plans for such screen shall be submitted to the plan commission for approval before installation.
- (3) *Offset.* In any off-street parking area, other than that provided for a residence which abuts a residential district, no vehicle shall be allowed to travel or park closer than 25 feet, or greater as the district may require, to the abutting residential lot line.
- (4) *Setback.* In any nonresidential off-street parking area, no vehicle shall be allowed to travel or park closer than five feet to the proposed street property line, nor closer than 25 feet to an existing street property line opposite a residential district, whichever is greater.
- (5) *Lighting.* Lights provided in any parking area shall be hooded or beamed so as not to create undesirable glare or illumination of adjacent property.

(Ord. of 8-8-1972, § 5.5; Ord. No. 9-2007, 12-10-2007)

**Sec. 90-1012. Private residential parking.**

(a) Open parking of cars accessory to a residence use shall be limited to those actually used by the residents, or for temporary parking of guests, except as provided in subsection (b) of this section.

(b) Garages accessory to residences in all residential and AUH zoning districts shall conform to the following:

- (1) A residential lot shall be prohibited to have more than two garages or one garage and one shed.

- (2) The architectural style and building materials of a detached private garage shall be comparable to the primary residence on the lot.
- (3) No private garage in a residence district shall be used for the carrying on of any general warehousing, metalworking, woodworking, masonry, carpentry, contracting or repair business except as a permitted accessory use for home occupation or approved residential business.
- (4) The combined floor area of a private detached and/or attached garage shall not exceed 85 percent of the habitable floor area of the principal building on the lot.
- (5) A detached private garage shall be prohibited from being erected, structurally altered or relocated so that any roofed portion thereof is closer than ten feet to any existing building on the lot.

(c) No truck, house trailer, camp trailer, or vehicular equipment of a commercial nature, shall be parked regularly on a lot in any district except where permitted as a use in commercial, industrial or agricultural districts unless:

- (1) The vehicle or equipment is less than 30 feet in length and is owned or used by occupants of the premises, except for habitation on the premises as prohibited in this ordinance.
- (2) The vehicle or equipment in residential districts is parked only in the side or rear yards. Where the vehicle is a truck, its licensed gross load weight shall not exceed one ton.

(Ord. of 8-8-1972, § 5.6; Ord. No. 9-02, § 5.6, 7-22-2002)

### **Sec. 90-1013. Driveways.**

All driveways installed, altered, changed, replaced or extended after the effective date of the ordinance from which this chapter is derived shall meet the following requirements:

- (1) Openings for vehicular ingress and egress to public village roads shall not normally exceed 30 feet at the street line, nor 35 feet at the roadway, unless the requirements for trucking are greater and wider openings are approved by the plan commission.
- (2) Public street entrances and exits to drive-in theaters, banks, restaurants, motels, funeral homes, vehicular sales, service, washing and repair stations, garages or public parking lots shall not be less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter or other place

of public assembly, unless specifically approved otherwise by the plan commission under the standards of section 90-1005.

(Ord. of 8-8-1972, § 5.7)

**Sec. 90-1014. Off-street loading and unloading spaces.**

(a) *Required.* In any commercial or industrial district and where required by the plan commission of institutional uses, off-street loading and unloading space shall be provided in addition to the required off-street parking area for every building used for commercial or industrial purposes, which building is in excess of 3,000 square feet in area, exclusive of storage areas.

(b) *Standard dimension.* An individual loading space shall be at least 12 feet wide by 45 feet in length, and have a minimum height clearance of 14 feet.

(c) *Determination of need.* The number of off-street loading spaces provided shall be based upon the operational characteristics of the individual use and shall be subject to approval by the plan commission upon submittal of site and operational plans.

(d) *Street servicing prohibited.* No building for commercial or industrial purposes shall be erected or placed on a lot after the effective date of the ordinance from which this chapter is derived in a manner requiring servicing directly from the abutting public street.

(Ord. of 8-8-1972, § 5.9)

**Cross References:** Loading zones, § 78-171 et seq.

**Sec. 90-1015 – 90-1050. Reserved.**

**ARTICLE VIII.**

**FLOODPLAIN REGULATIONS**

**DIVISION 1.**

**STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE,  
TITLE AND GENERAL PROVISIONS**

**Sec. 90-1051. Statutory authorization.**

This article is adopted pursuant to the authorization in Wis. Stats. § 61.35 for villages and the requirements in Wis. Stats. § 87.30.

(Ord. No. 3-2008, § 1(1.0(1.1)), 2-11-2008)

**Sec. 90-1052. Finding of fact.**

Uncontrolled development and use of the floodplains and rivers of the Village of Mount Pleasant would impair the public health, safety, convenience, general welfare and tax base.

(Ord. No. 3-2008, § 1(1.0(1.2)), 2-11-2008)

**Sec. 90-1053. Statement of purpose.**

This article is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(Ord. No. 3-2008, § 1(1.0(1.3)), 2-11-2008)

**Sec. 90-1054. Title.**

This article shall be known as the Floodplain Zoning Ordinance for the Village of Mount Pleasant, Racine County, Wisconsin.

(Ord. No. 3-2008, § 1(1.0(1.4)), 2-11-2008)

**Sec. 90-1055. General provisions.**

(a) *Areas to be regulated.* This article regulates all areas that would be covered by the regional flood or base flood.

Note: Base flood elevations are derived from the flood profiles in the flood insurance study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the flood insurance rate map.

(b) *Official maps and revisions.* The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below and the revisions in the Village of Mount Pleasant Floodplain Appendix and the

Lake Michigan Coastal Erosion Management Study for Racine County, Wisconsin; Southeastern Wisconsin Regional Planning Commission report number 86. Any change to the base flood elevations (BFE) or any changes to boundaries of the floodplain or floodway in the flood insurance study (FIS) or on the flood insurance rate map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village of Mount Pleasant Planning Department. If more than one map or revision is referenced, the most restrictive information shall apply.

*Official maps:* Based on the FIS.

- (1) Flood Insurance Rate Map (FIRM), Community Panel Numbers 55101C0089D, 55101C0093D, 55101C0094D, 55101C0113D, 55101C0114D, 55101C0202D, 55101C0204D, 55101C0206D, 55101C0207D, 55101C0208D, 55101C0209D, 55101C0212D, 55101C0216D, 55101C0217D, 55101C0226D, 55101C0227D, 55101C0228D, 55101C0229D, 55101C0233D, 55101C0236D, 55101C0237D, and 55101C0241D; dated May 2, 2012; with corresponding profiles that are based on Flood Insurance Study (FIS) Numbers 55101CV001A and 55101CV002A dated May 2, 2012.
- (2) A Lake Michigan Coastal Erosion Management Study for Racine County, Wisconsin; Southeastern Wisconsin Regional Planning Commission report number 86.
- (3) Flood Storage Area Map Phases 1-9—North Branch of the Pike River FIS, prepared by Hey and Associates, Inc.
- (4) Flood Storage Area Map—Bartlett Branch Tributary to the Pike River FIS, prepared by Hey and Associates, Inc.

Approved by: The DNR and FEMA

(c) *Establishment of districts.* The regional floodplain areas are divided into four districts as follows:

- (1) The floodway district (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (2) The floodfringe district (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (3) The general floodplain district (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

- (4) The flood storage district (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) *Locating floodplain boundaries.* Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to division 8 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to 90-1238(3) and the criteria in (1) and (2), below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to Division 8-*Amendments*.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale.

(e) *Removal of lands from floodplain.* Compliance with the provisions of this article shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to division 8 *Amendments*.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a letter of map change (LOMC).

(f) *Compliance.* Any development or use within the areas regulated by this article shall be in compliance with the terms of this article, and other applicable local, state, and federal regulations.

(g) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all entities within the Village of Mount Pleasant are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13), applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Wis. Stats. § 30.2022, applies.

(h) *Abrogation and greater restrictions.*

- (1) This article supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats § 61.35 for villages or Wis. Stats. §

87.30. which relate to floodplains. If another ordinance is more restrictive than this article, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- (2) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

(i) *Interpretation.* In their interpretation and application, the provisions of this article are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this article, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this article or in effect on the date of the most recent text amendment to this article.

(j) *Warning and disclaimer of liability.* The flood protection standards in this article are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This article does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this article create liability on the part of, or a cause of action against, the Village of Mount Pleasant or any officer or employee thereof for any flood damage that may result from reliance on this article.

(k) *Severability.* Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.

(l) *Annexed areas for cities and villages.* The Racine County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the Village of Mount Pleasant for all annexed areas until the Village of Mount Pleasant adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the Village of Mount Pleasant's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Village of Mount Pleasant Planning Department. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(m) *General development standards.* The Village of Mount Pleasant shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All

subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.  
(Ord. No. 3-2008, § 1(1.0(1.5)), 2-11-2008)

**Secs. 90-1056--90-1085. Reserved.**

## **DIVISION 2.**

### **GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN**

#### **Sec. 90-1086. Hydraulic and hydrologic analyses.**

- (a) Except as allowed in subparagraph (c), below, no floodplain development shall:
  - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
  - (2) Increase regional flood height due to floodplain storage area lost
- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights, based on the officially adopted FIRM or other adopted map, unless the provisions of subparagraph (c) are met.
- (c) Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with division 8 *Amendments*.

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

(Ord. No. 3-2008, § 1(2.0(2.1)), 2-11-2008)

#### **Sec. 90-1087. Watercourse alterations.**

- (a) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

(b) As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(Ord. No. 3-2008, § 1(2.0(2.2)), 2-11-2008)

#### **Sec. 90-1088. Chapter 30, 31, Wis. Stats. development.**

Development which requires a permit from the department, under Wis. Stats. Chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to division 8 *Amendments*.

(Ord. No. 3-2008, § 1(2.0(2.3)), 2-11-2008)

#### **Sec. 90-1089. Public or private campgrounds.**

Public or private campgrounds shall have low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the Department of Health Services.
- (2) A land use permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground are such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subparagraph (4), above, to remain in compliance with all applicable regulations, including those of the Department of Health Services and all other applicable regulations.

- (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on-site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The Village of Mount Pleasant shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either divisions 3, 4 or 5 for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

(Ord. No. 3-2008, § 1(2.0(2.4)), 2-11-2008)

**Secs. 90-1090--90-1116. Reserved.**

### **DIVISION 3.**

#### **FLOODWAY DISTRICT (FW)**

##### **Sec. 90-1117. Applicability.**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 90-1178(d).

(Ord. No. 3-2008, § 1(3.0(3.1)), 2-11-2008)

**Sec. 90-1118. Permitted uses.**

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if:

- They are not prohibited by any other ordinance;
- They meet the standards in sections 90-1119 and 90-1120; and
- All permits or certificates have been issued according to section 90-1236.
  - a. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - b. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - c. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of section 90-1119(d).
  - d. Uses or structures accessory to open space uses, or classified as historic structures that comply with section 90-1119 and 90-1120.
  - e. Extraction of sand, gravel or other materials that comply with section 90-1119(d).
  - f. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. Chs. 30, 31.
  - g. Public utilities, streets and bridges that comply with section 90-1119(c).

(Ord. No. 3-2008, § 1(3.0(3.2)), 2-11-2008)

**Sec. 90-1119. Standards for developments in floodway areas.**

(a) *General.*

- (1) Any development in floodway areas shall comply with division 2 and have low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to section 90-1086:

- a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application if the project will cause any increase in the elevations upstream or downstream, based on the data submitted for subparagraph (2), above.

(b) *Structures.* Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (1) The structure is not designed for human habitation and does not have a high flood damage potential;
- (2) It must be anchored to resist flotation, collapse and lateral movement;
- (3) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
- (4) It must not obstruct the flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
- (5) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) *Public utilities, streets and bridges.* Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of section 90-1086.

(d) *Fills or deposition of materials.* Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of section 90-1086 are met;

- (2) No material is deposited in the navigable channel unless a permit is issued by the department pursuant to Wis. Stats. ch. 30, and a permit pursuant to § 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
  - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  - (4) The fill is not classified as a solid or hazardous material.
- (Ord. No. 3-2008, § 1(3.0(3.3)), 2-11-2008)

**Sec. 90-1120. Prohibited uses.**

All uses not listed as permitted uses in section 90-1118 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
  - (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
  - (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
  - (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code.
  - (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
  - (6) Any solid or hazardous waste disposal sites;
  - (7) Any wastewater treatment ponds or facilities, except those permitted under NR § 110.15(3)(b), Wis. Adm. Code;
  - (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.
- (Ord. No. 3-2008, § 1(3.0(3.4)), 2-11-2008)

**Secs. 90-1121--90-1146. Reserved.**

#### **DIVISION 4.**

#### **FLOODFRINGE DISTRICT (FF)**

**Sec. 90-1147. Applicability.**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 90-1178(d).  
(Ord. No. 3-2008, § 1(4.0(4.1)), 2-11-2008)

**Sec. 90-1148. Permitted uses.**

Any structure, land use, or development is allowed in the floodfringe district if the standards in section 90-1149 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in section 90-1236 have been issued.  
(Ord. No. 3-2008, § 1(4.0(4.2)), 2-11-2008)

**Sec. 90-1149. Standards for development in floodfringe areas.**

Section 90-1086 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of division 6 *Nonconforming Uses*.

- (1) *Residential uses.* Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Division 6-*Nonconforming Uses*.
  - a. The elevation of the lowest floor shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
  - b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
  - c. Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in subparagraph d, below.

- d. In developments where existing street or sewer line elevations make compliance with subparagraph c., impractical, the Village of Mount Pleasant may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
  - i. The Village of Mount Pleasant has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
  - ii. The Village of Mount Pleasant has a emergency evacuation plan approved by Wisconsin Emergency Management and the Department.

(2) *Accessory structures or uses.*

- a. An accessory structure which is not connected to a principal structure may be constructed on fill with its lowest floor at or above the regional flood elevation.

(3) *Commercial uses.* Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of section 90-1149(1). Subject to the requirements of section 90-1149(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing measures in section 90-1240. Subject to the requirements of section 90-1149(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) *Storage of materials.* Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with section 90-1240. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with section 90-1240 to the flood protection elevation;
  - b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) *Sewage systems.* All on-site sewage disposal systems shall be floodproofed, pursuant to section 90-1240, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
- (8) *Wells.* All wells shall be floodproofed, pursuant to section 90-1240, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (9) *Solid waste disposal sites.* Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (10) *Deposition of materials.* Any deposited material must meet all the provisions of this article.
- (11) *Manufactured homes.*
  - a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
  - b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
    - i. Have the lowest floor elevated to the flood protection elevation; and
    - ii. Be anchored so they do not float, collapse or move laterally during a flood.
  - c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved

manufactured homes shall meet the residential development standards for the floodfringe in section 90-1149(1).

- (12) *Mobile recreational vehicles.* All mobile recreational vehicles that are on-site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in section 90-1149(11)b. and c. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Ord. No. 3-2008, § 1(4.0(4.3)), 2-11-2008)

**Secs. 90-1050--90-1176. Reserved.**

## **DIVISION 5.**

### **DISTRICTS**

#### **Sec. 90-1177. Other floodplain districts.**

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

(Ord. No. 3-2008, § 1(5.0), 2-11-2008)

#### **Sec. 90-1178. General floodplain district (GFP).**

(a) *Applicability.* The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

(b) *Permitted uses.* Pursuant to section 90-1178(d), it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (section 90-1118) and floodfringe areas (section 90-1148) are allowed within the general floodplain district, according to the standards of section 90-1178(c), provided that all permits or certificates required under section 90-1236 have been issued.

(c) *Standards for development in the general floodplain district.* Division 3 applies to floodway areas, division 4 applies to floodfringe areas. The rest of this article applies to either district.

- (1) In AO/AH Zones, the structure's lowest floor must meet one of the conditions listed below whichever is higher:

- a. At or above the flood protection elevation; or
  - b. Two (2) feet above the highest adjacent grade around the structure;  
or
  - c. The depth as shown on the FIRM.
- (2) In AO/AH Zones, provide plans showing adequate drainage paths to guide floodwaters around structures.
- (d) *Determining floodway and floodfringe limits.* Upon receiving an application for development within the general floodplain district, the zoning administrator shall:
- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
  - (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
    - a. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
    - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
    - c. Profile showing the slope of the bottom of the channel or flow line of the stream;
    - d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
    - e. A Hydrologic and Hydraulic Study as specified in section 90-1236(b)(3).

(Ord. No. 3-2008, § 1(5.1), 2-11-2008)

## **Sec. 90-1179. Flood storage district.**

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

- (1) *Applicability.* The provisions of this section apply to all areas within the flood storage district (FSD), as shown on the official floodplain zoning maps.
- (2) *Permitted uses.* Any use or development which occurs in a flood storage district must meet the applicable requirements in section 90-1149.
- (3) *Standards for development in flood storage districts.*
  - a. Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
  - b. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
  - c. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district - on this waterway - is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without flood plain storage, as per Division 8-*Amendments* of this article.
  - d. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord. No. 3-2008, § 1(5.2), 2-11-2008)

**Secs. 90-1180--90-1206. Reserved.**

## DIVISION 6.

### NONCONFORMING USES

#### Sec. 90-1207. General.

(a) *Applicability.* If these standards conform with Wis. Stats. § 62.23(7)(h), for villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this article or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this article may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article;
- (3) The Village of Mount Pleasant shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure

would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 90-1149(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this paragraph;

- (5) a. Except as provided in subparagraph b., below, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
- b. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

1. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of section 90-1240(b).
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

- d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 90-1178(c)(1).
- f. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

## 2. Nonresidential Structures

- a. Shall meet the requirements of Section 90-1207(b)(5)(b)1a-b and e-f.
- b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 90-1240(a) or (b).
- c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 90-1178(c)(1).

- (6) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with section 90-1119(a), flood-resistant materials are used, and construction practices and floodproofing methods that comply with section 90-1240 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of section 90-1207(b)(5)(b)(1) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.
- (7) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of the present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 90-1149(1).

- (8) If on a per event basis the total value of the work being done under 90-1207(b)(4) and 90-1207(b)(7) equals or exceeds 50% of the present equalized assessed value, the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 90-1149(1).

**Sec. 90-1208. Floodway areas.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

- (1) Has been granted a permit or variance which meets all ordinance requirements;
- (2) Meets the requirements of section 90-1207;
- (3) Will not increase the obstruction to flood flows or regional flood height;
- (4) Any addition to the existing structure shall be floodproofed, pursuant to section 90-1240, by means other than the use of fill, to the flood protection elevation;
- (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
  - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - d. The use must be limited to parking, building access or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or

maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all Village of Mount Pleasant ordinances, section 90-1240(c) and ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all Village of Mount Pleasant ordinances, section 90-1240(c) and chs. NR 811 and NR 812, Wis. Adm. Code.  
(Ord. No. 3-2008, § 1(6.0(6.2)), 2-11-2008)

#### **Sec. 90-1209. Floodfringe areas.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the Village of Mount Pleasant, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in sections 90-1149 and 90-1240, except where subsection (b), below is applicable.

(b) Where compliance with the provisions of subparagraph (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the zoning board of appeals, using the procedures established in section 90-1238, may grant a variance from those provisions of subparagraph (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
- (2) Human lives are not endangered;
- (3) Public facilities, such as water or sewer, will not be installed;
- (4) Flood depths will not exceed two feet;
- (5) Flood velocities will not exceed two feet per second; and
- (6) The structure will not be used for storage of materials as described in section 90-1149.

(c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all Village of Mount Pleasant ordinances and ch. SPS 383, Wis. Adm. Code.

(d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article, specifically the provisions of Section 90-1240(c) and ch. NR 811 and NR 812, Wis. Adm. Code.

(Ord. No. 3-2008, § 1(6.0(6.3)), 2-11-2008)

#### **Sec. 90-1210. Flood storage areas.**

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in section 90-1179 are met.

(Ord. No. 3-2008, § 1(6.0(6.4)), 2-11-2008)

#### **Secs. 90-1211--90-1234. Reserved.**

### **DIVISION 7.**

#### **ARTICLE ADMINISTRATION**

#### **Sec. 90-1235. Administration.**

Where the zoning administrator, plan commission and/or the zoning board of appeals has already been appointed to administer a zoning ordinance adopted under Wis. Stats. § 62.23(7), these officials shall also administer this article.

(Ord. No. 3-2008, § 1(7.0), 2-11-2008)

#### **Sec. 90-1236. Zoning administrator.**

(a) The zoning administrator is authorized to administer this article and shall have the following duties and powers:

- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspect properties for compliance with provisions of this article and issue certificates of compliance where appropriate.
- (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
- (4) Keep records of all official actions such as:

- a. All permits issued, inspections made, and work approved;
- b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
- c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
- d. All substantial damage assessment reports for floodplain structures.
- e. Floodproofing certificates.

(5) Submit copies of the following items to the department regional office:

- a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
- b. Copies of any case-by-case analyses, and any other information required by the department including an annual summary of the number and types of floodplain zoning actions taken.
- c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available on the DNR website.

- (6) Investigate, prepare reports, and report violations of this article to the Village of Mount Pleasant Plan Commission and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
- (7) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(b) *Land use permit.* A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(1) *General information.*

- a. Name and address of the applicant, property owner and contractor;

- b. Legal description, proposed use, and whether it is new construction or a modification;
- (2) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:
- a. Location, dimensions, area and elevation of the lot;
  - b. Location of the ordinary high water mark of any abutting navigable waterways;
  - c. Location of any structures with distances measured from the lot lines and street center lines;
  - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
  - e. Location and elevation of existing or future access roads;
  - f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
  - g. The elevation of the lowest floor of proposed buildings and any fill using vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
  - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of divisions 3 or 4 are met; and
  - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 90-1086. This may include any of the information noted in section 90-1119(a).
- (3) *Hydraulic and hydrologic studies to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.
- a. Zone A floodplains:
    - 1. Hydrology

- i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
2. Hydraulic modeling  
The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
  - i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
  - ii. channel sections must be surveyed.
  - iii. minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
  - iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
  - v. the most current version of HEC\_RAS shall be used.
  - vi. a survey of bridge and culvert openings and the top of road is required at each structure.
  - vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
  - viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the

reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

- ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

### 3. Mapping

A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
- ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

### b. Zone AE Floodplains

#### 1. Hydrology

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

#### 2. Hydraulic model

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

- i. Duplicate Effective Model  
The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
- ii. Corrected Effective Model.  
The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
- iii. Existing (Pre-Project Conditions) Model.  
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
- iv. Revised (Post-Project Conditions) Model.  
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
- v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
- vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as

required. The Effective Model shall not be truncated.

3. Mapping

Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
- ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
- iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

- (4) *Expiration.* All permits issued under the authority of this article shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(c) *Certificate of compliance.* No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certification signed by a Wisconsin registered professional engineer, registered architect or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a Wisconsin registered professional engineer or registered architect that floodproofing measures meet the requirements of section 90-1240.

(d) *Other permits.* The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under § 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344. (Ord. No. 3-2008, § 1(7.1), 2-11-2008)

#### **Sec. 90-1237. Plan commission.**

- (a) The Village of Mount Pleasant Plan Commission shall:
  - (1) Oversee the functions of the office of the zoning administrator; and
  - (2) Review and advise the village board on all proposed amendments to this article, maps and text.
- (b) The Plan Commission shall not:
  - (1) Grant variances to the terms of the ordinance in place of action by the Zoning Board of Appeals; or

- (2) Amend the text or zoning maps in place of official action by the Village Board.  
(Ord. No. 3-2008, § 1(7.2), 2-11-2008)

**Sec. 90-1238. Zoning board of appeals.**

The Zoning Board of Appeals, created under Wis. Stats. § 62.23(7)(e). for villages, is hereby authorized or shall be appointed to act for the purposes of this article. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the board.

(1) *Powers and duties.* The Zoning Board of Appeals shall:

- a. Appeals. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.
- b. Boundary disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- c. Variances. Hear and decide, upon appeal, variances from the ordinance standards.

(2) *Appeals to the board.*

- a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the Village of Mount Pleasant affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
- b. *Notice and hearing for appeals including variances.*
  - i. Notice - The board shall:
    - a. Fix a reasonable time for the hearing;
    - b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;

- c. Assure that notice shall be mailed to the parties in interest and the department regional office at least ten days in advance of the hearing.
    - ii. Hearing - Any party may appear in person or by agent. The board shall:
      - a. Resolve boundary disputes according to section 90-1238(3).
      - b. Decide variance applications according to section 90-1238(4).
      - c. Decide appeals of permit denials according to section 90-1239.
  - c. Decision: The final decision regarding the appeal or variance application shall:
    - i. Be made within a reasonable time;
    - ii. Be sent to the department regional office within ten days of the decision;
    - iii. Be a written determination signed by the chairman or secretary of the board;
    - iv. State the specific facts which are the basis for the board's decision;
    - v. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
    - vi. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.
- (3) *Boundary disputes.* The following procedure shall be used by the board in hearing disputes concerning floodplain district boundaries:
- a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall

prevail in locating the boundary. If none exist, other evidence may be examined.

- b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.
- c. If the boundary is incorrectly mapped, the board should inform the plan commission or the person contesting the boundary location to petition the village board for a map amendment according to division 8.

(4) *Variance*

- a. The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:
  - i. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
  - ii. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  - iii. The variance is not contrary to the public interest; and
  - iv. The variance is consistent with the purpose of this article in section 90-1053.
- b. In addition to the criteria in subparagraph a., to qualify for a variance under FEMA regulations, the following criteria must be met:
  - i. The variance may not cause any increase in the regional flood elevation;
  - ii. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
  - iii. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

- c. A variance shall not:
  - i. Grant, extend or increase any use prohibited in the zoning district.
  - ii. Be granted for a hardship based solely on an economic gain or loss.
  - iii. Be granted for a hardship which is self-created.
  - iv. Damage the rights or property values of other persons in the area.
  - v. Allow actions without the amendments to this article or map(s) required in Division 8-*Amendments*.
  - vi. Allow any alteration of a historic structure, including its use, which would preclude its continued designation as an historic structure.
- d. When a floodplain variance is granted the board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

(Ord. No. 3-2008, § 1(7.3), 2-11-2008)

**Sec. 90-1239. To review appeals of permit denials.**

- (a) The plan commission (section 90-1237(a)) shall review all data related to the appeal. This may include:
  - (1) Permit application data listed in section 90-1236(b).
  - (2) Floodway/floodfringe determination data in section 90-1178(d).
  - (3) Data listed in section 90-1119(a)(2) where the applicant has not submitted this information to the zoning administrator.
  - (4) Other data submitted with the application, or submitted to the board with the appeal.
- (b) For appeals of all denied permits the board shall:
  - (1) Follow the procedures of section 90-1238;
  - (2) Consider plan commission recommendations; and

- (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the board shall:
  - (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per requirements of Division 8-*Amendments*.
  - (2) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord. No. 3-2008, § 1(7.4), 2-11-2008)

#### **Sec. 90-1240. Floodproofing.**

(a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

(b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

- (1) certified by a professional engineer or architect; or
- (2) meets or exceeds the following standards:
  - (a) a minimum of two openings having a total area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - (b) the bottom of all openings shall be no higher than one foot above grade; and
  - (c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Floodproofing measures shall be designed to:

- (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (2) Protect structures to the flood protection elevation;
  - (3) Anchor structures to foundations to resist flotation and lateral movement; and
  - (4) Minimize or eliminate infiltration of flood waters.
  - (5) Minimize or eliminate discharges into flood waters.
- (d) Floodproofing measures could include:
- (1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  - (2) Adding mass or weight to prevent flotation.
  - (3) Placing essential utilities above the flood protection elevation.
  - (4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
  - (5) Constructing water supply wells and waste treatment systems to prevent the entry of floodwaters.
  - (6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(Ord. No. 3-2008, § 1(7.5), 2-11-2008)

**Sec. 90-1241. Public information.**

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) All real estate transfers should show what floodplain zoning district any real property is in.

(Ord. No. 3-2008, § 1(7.6), 2-11-2008)

**Secs. 90-1242--90-1266. Reserved.**

## **DIVISION 8.**

### **AMENDMENTS**

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 90-1267.

In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 90-1267. Any such alterations must be reviewed and approved by FEMA and DNR.

In A Zones increases equal to or greater than 1 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with section 90-1267.

#### **Sec. 90-1267. General.**

The village board may change or supplement the floodplain zoning district boundaries and this article in the manner outlined in Section 90-1268. Actions which require an amendment to the ordinance and/or submittal of a Letter of Map Change include, but are not limited to, the following:

- (1) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM.
- (2) Any changes to any other officially adopted floodplain map listed in Section 90-1055.
- (3) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (4) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (5) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height.
- (6) Any upgrade to a floodplain zoning ordinance text required by NR § 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the Village of Mount Pleasant.

- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA web site - [www.fema.gov](http://www.fema.gov) - for the map change fee schedule.  
(Ord. No. 3-2008, § 1(8.0(8.1)), 2-11-2008)

#### **Sec. 90-1268. Procedures.**

Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23, for villages. Such petitions shall include all necessary data required by sections 90-1178(d) and section 90-1236(b).

- (1) The proposed amendment shall be referred to the plan commission for a public hearing and recommendation to the village board. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23, for villages.
- (2) No amendments shall become effective until reviewed and approved by the department.
- (3) All persons petitioning for a map amendment that obstructs flow, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the village board.
- (4) For amendments in areas with no water surface profiles, the plan commission shall consider data submitted by the department, the zoning administrator's visual on-site inspections and other available information.  
(See section 90-1055(d)).

(Ord. No. 3-2008, § 1(8.0(8.2)), 2-11-2008)

#### **Sec. 90-1269. Enforcement and penalties.**

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the Village of Mount Pleasant attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the Village of Mount Pleasant a penalty of not less than \$25.00 and not more than \$50 together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the Village of Mount Pleasant, the state of Wisconsin, or any citizen thereof pursuant to Wis. Stats. § 87.30.

(Ord. No. 3-2008, § 1(9.0), 2-11-2008)